# Neg vs MoState AS- ADA Round 4

# 1NC

# States CP

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#### The fifty states and relevant territories should:

#### engage in multistate antitrust action and enforcement over anticompetitive business practices in agriculture,

#### allocate sufficient resources for effective enforcement,

#### coordinate and engage in all necessary intel sharing.

#### States solve best---multistate organizations, expanded jurisdiction, and can “fill the gap”

Rauch 20 Daniel E. Rauch J.D. Yale Law School. (2020 ). ARTICLE: SHERMAN'S MISSING "SUPPLEMENT": PROSECUTORIAL CAPACITY, AGENCY INCENTIVES, AND THE FALSE DAWN OF ANTITRUST FEDERALISM. *Cleveland State Law Review*, 68, 172. <https://advance-lexis-com.proxy2.cl.msu.edu/api/document?collection=analytical-materials&id=urn:contentItem:5YDM-6NS1-FCK4-G4MV-00000-00&context=1516831>. {DK}

In 2020, as in 1890, states attorneys general have much to offer antitrust enforcement. Illegal anticompetitive conduct is often concentrated locally, rather than nationally, making state-level enforcement especially appropriate. 202Link to the text of the noteMany states have antitrust statutes (or bodies of state law) that allow for prosecutions that the federal laws do not. 203Link to the text of the noteState governments often will have better knowledge of local economic conditions than distant agencies in Washington, making them natural choices for [\*210] antitrust enforcement. 204Link to the text of the noteAnd if the federal government fails to enforce the antitrust laws, state attorneys general often have the ability and political incentives "step up" to "fill the void." 205Link to the text of the note

Yet, if the early failure of antitrust federalism holds a single lesson, it is that even such compelling political, historical, and economic imperatives are, without more, insufficient to spur state antitrust action. Unless state prosecutors have the capacity and incentives to take on the antitrust challenge, they will not act.

What does this mean for today's state antitrust enforcers? On one hand, the years since 1890 have seen several innovations that substantially mitigate the problem of prosecutorial capacity. Multistate organizations like the National Association of Attorneys General (NAAG) have allowed for coordination and information sharing between attorneys general on antitrust matters, thus reducing the costs and burden of such cases. 206Link to the text of the noteLikewise, the rise of multistate antitrust suits brought jointly by dozens of states allows for cost-and-capacity-sharing. 207Link to the text of the noteChanges in federal law, like the Hart-Scott-Rodino Act of 1976, created an economic incentive for states to pursue antitrust cases by codifying the ability of state attorneys general to sue as parens patriae and by offering states treble damages when they prevail (a strong economic incentive if ever there was one). 208Link to the text of the note

Going further, the federal government has sometimes expressly subsidized state antitrust efforts, as with the supplemental funding offered in the Crime Control Act of 1976. 209Link to the text of the noteAnd in some states, the capacity of the attorney general's office has increased to levels inconceivable at the turn of the century: New York's Attorney General, for instance, supervises over 1,800 employees, 210Link to the text of the notewhile California employs a staggering [\*211] 4,500. 211Link to the text of the notePerhaps because of these shifts, it is unsurprising that in recent times at least some state attorneys general have heeded the call to enforce state and federal antitrust laws, from local investigations of healthcare consolidation 212Link to the text of the noteto multistate actions against Silicon Valley behemoths like Apple and Amazon. 213Link to the text of the note

## Section 5

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#### The FTC should issue enforcement guidance that the presently-existent phrase “unfair methods of competition in or affecting commerce” in Section 5 of the FTCA includes agricultural mergers that cause a significant increase in concentration. The FTC should release a clear statement and data sets that reflects this and enforce accordingly. The FTC should indicate that it is engaging in Administrative Constitutionalism and that they believe the immediate issue is grounded in the need for a broader protection of antitrust injury doctrine for private merger lawsuits.

#### The cplan solves. It also competes – the FTC interprets current authority, instead of creating new prohibitions.

Kahn ‘21

et al; This is a recent joint statement released by the five Federal Trade Commissioners. The Chair of the Federal Trade Commission is Lina Khan - an Associate Professor of Law at Columbia Law School. Also on the Commission is Rohit Chopra – who was previously The Assistant Director of the Consumer Financial Protection Bureau, as well as Rebecca Slaughter - an American attorney who was previously the acting chair of the Federal Trade Commission. Two others also sit on the Commission. “STATEMENT OF THE COMMISSION On the Withdrawal of the Statement of Enforcement Principles Regarding “Unfair Methods of Competition” Under Section 5 of the FTC Act” - July 9, 2021 - #E&F – modified for language that may offend - https://www.ftc.gov/system/files/documents/public\_statements/1591706/p210100commnstmtwithdrawalsec5enforcement.pdf

Section 5 of the Federal Trade Commission Act prohibits “unfair methods of competition in or affecting commerce.”1 In 2015, the Federal Trade Commission under Chairwoman Edith Ramirez published the Statement of Enforcement Principles Regarding “Unfair Methods of Competition” Under Section 5 of the FTC Act (hereinafter “2015 Statement”), which established principles to guide the agency’s exercise of its “standalone” Section 5 authority.2 Although presented as a way to reaffirm the Commission’s preexisting approach to Section 5 and preserve doctrinal flexibility,3 the 2015 Statement contravenes the text, structure, and history of Section 5 and largely writes the FTC’s standalone authority out of existence. In our ~~view~~ (perspective), the 2015 Statement abrogates the Commission’s congressionally mandated duty to use its expertise to identify and combat unfair methods of competition even if they do not violate a separate antitrust statute. Accordingly, because the Commission intends to restore the agency to this critical mission, the agency withdraws the 2015 Statement.

I. Background

On August 13, 2015, the Federal Trade Commission issued the 2015 Statement, which announced that the Commission would apply Section 5 using “a framework similar to the rule of reason,” by only challenging actions that “cause, or [are] likely to cause, harm to competition or the competitive process, taking into account any associated cognizable efficiencies and business justifications[.]”4 The 2015 Statement advised that the Commission is “less likely” to raise a standalone Section 5 claim “if enforcement of the Sherman or Clayton Act is sufficient to address the competitive harm.”5

In a statement accompanying the issuance of these principles, the Commission explained that its enforcement of Section 5 would be “aligned with” the Sherman and Clayton Acts and thus subject to “the ‘rule of reason’ framework developed under the antitrust laws[.]”6 In a speech announcing the statement, Chairwoman Ramirez noted that she favored a “common-law approach” to Section 5 rather than “a prescriptive codification of precisely what conduct is prohibited.”7 She also acknowledged that the Commission’s policy statement was codifying an interpretation of Section 5 that is more restrictive than the Commission’s historic approach and more constraining than the prevailing case law.8 She added, “[W]e now exercise our standalone Section 5 authority in a far narrower class of cases than we did throughout most of the twentieth century.”9

With the exception of certain administrative complaints involving invitations to collude, the agency has pled a standalone Section 5 violation just once in the more than five years since it published the statement. 10

II. The Text, Structure, and History of Section 5 Reflect a Clear Legislative Mandate Broader than the Sherman and Clayton Acts

By tethering Section 5 to the Sherman and Clayton Acts, the 2015 Statement negates the Commission’s core legislative mandate, as reflected in the statutory text, the structure of the law, and the legislative history, and undermines the Commission’s institutional strengths.

In 1914, Congress enacted the Federal Trade Commission Act to reach beyond the Sherman Act and to provide an alternative institutional framework for enforcing the antitrust laws. 11 After the Supreme Court announced in Standard Oil that it would subject restraints of trade to an open-ended “standard of reason” under the Sherman Act, lawmakers were concerned that this approach to antitrust delayed resolution of cases, delivered inconsistent and unpredictable results, and yielded outsized and unchecked interpretive authority to the courts.12 For instance, Senator Newlands complained that Standard Oil left antitrust regulation “to the varying judgments of different courts upon the facts and the law”; he thus sought to create an “administrative tribunal … with powers of recommendation, with powers of condemnation, [and] with powers of correction.”13 Likewise, a 1913 Senate committee report lamented that the rule of reason had made it “impossible to predict” whether courts would condemn many “practices that seriously interfere with competition, and are plainly opposed to the public welfare,” and thus called for legislation “establishing a commission for the better administration of the law and to aid in its enforcement.”14 These concerns spurred the passage of the FTC Act, which created an administrative body that could police unlawful business practices with greater expertise and democratic accountability than courts provided.15

At the heart of the statute was Section 5, which declares “unfair methods of competition” unlawful.16 By proscribing conduct using this new term, rather than codifying either the text or judicial interpretations of the Sherman Act, the plain language of the statute makes clear that Congress intended for Section 5 to reach beyond existing antitrust law. The structure of Section 5 also supports a reading that is not limited to an extension of the Sherman Act. Notably, the FTC Act’s remedial scheme differs significantly from the remedial structure of the other antitrust statutes. The Commission cannot pursue criminal penalties for violations of “unfair methods of competition,” and Section 5 provides no private right of action, shielding violators from private lawsuits and treble damages. In this way, the institutional design laid out in the FTC Act reflects a basic tradeoff: Section 5 grants the Commission extensive authority to shape doctrine and reach conduct not otherwise prohibited by the Sherman Act, but provides a more limited set of remedies.17

The legislative debate around the FTC Act makes clear that the text and structure of the statute were intentional. Lawmakers chose to leave it to the Commission to determine which practices fell into the category of “unfair methods of competition” rather than attempt to define through statute the various unlawful practices, given that “there were too many unfair practices to define, and after writing 20 of them into the law it would be quite possible to invent others.”18 Lawmakers were clear that Section 5 was designed to extend beyond the reach of the antitrust laws. 19 For example, Senator Cummins, one of the main sponsors of the FTC Act, stated that the purpose of Section 5 was “to make some things punishable, to prevent some things, that cannot be punished or prevented under the antitrust law.”20

The Supreme Court has repeatedly affirmed this view of the agency’s Section 5 authority, holding that the statute, by its plain text, does not limit unfair methods of competition to practices that violate other antitrust laws. 21 The Court, recognizing the Commission’s expertise in competition matters, has given “deference”22 and “great weight”23 to the Commission’s determination that a practice is unfair and should be condemned.

#### Independently, the CP engages in “Administrative Constitutionalism”. This *solves FTC independence* because the agency’s perceived as leading, not reacting. It also *solves the Aff precedent* and *avoids rollback*.

* Creates same legal/Constitutional norms – but has the FTC be in the lead;
* No rollback – the Federal Courts may have Originalists, but the actually history of Administrative Constitutionalism would fare-well if appealed.

Lee ‘19

Sophia Z. Lee - Professor of Law, University of Pennsylvania Carey Law School – “OUR ADMINISTERED CONSTITUTION: ADMINISTRATIVE CONSTITUTIONALISM FROM THE FOUNDING TO THE PRESENT” - University of Pennsylvania Law Review - Vol. 167: 1699 – June - #E&F – continues to footnote #19 - https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=3086&context=faculty\_scholarship

I found my way to the term "administrative constitutionalism" through historical research. I was encountering mid-twentieth-century agency interpretations of the Constitution that differed notably from those of the Supreme Court and did not know what to make of them.16 Legal scholarship on the role Congress plays in making constitutional law gave me a way to make sense of that historical record. It also gave me a nomenclature: if Congress's engagement with the Constitution was "legislative constitutionalism," what I was finding was "administrative constitutionalism."17 In 2010,1 first used the term to describe agencies' interpretation and implementation of the United States Constitution.18 Since then, historians who encountered the Constitution in agency archives have built a burgeoning literature on how agencies have interpreted and implemented the Constitution.19

Using this history, scholars of constitutional and administrative law have developed a rich literature on the theoretical and normative questions administrative constitutionalism raises. These include how public, self-conscious, or determinative constitutional considerations have to be to count as administrative constitutionalism; what institutional factors foster, deter, and shape administrators' engagement with the Constitution; when, if ever, agencies can interpret the Constitution differently than the courts; and whether courts should defer to agencies' constitutional interpretations.20

Administrative constitutionalism can be defined broadly or narrowly. Defined most broadly, it refers to agencies' role in constructing constitutional norms such as adequate due process, the bounds of free speech, or the scope of executive power, whether or not agencies consider themselves to be doing so. More narrowly, it includes only instances in which agencies selfconsciously consider the meaning of the Constitution in designing policies and issuing decisions.21

Broadly defined, it includes all instances in which agencies implement the Constitution, even if they do so merely as a precursor to determination of the constitutional question by Congress or the courts. More narrowly defined, administrative constitutionalism encompasses only those instances in which an agency has the final say or interprets the Constitution in a way that sets it against the courts or Congress.22

However defined, this Article argues that historians' case studies of administrative constitutionalism suggest that administrative agencies have been the primary interpreters and implementers of the federal Constitution throughout the history of the United States, although the scale and scope of administrative constitutionalism has changed significantly over time as the balance of opportunities and constraints has shifted.23 That said, the Article also contends that over the twentieth century, and especially since the New Deal, courts have cast an increasingly long shadow over the administered Constitution. In part, this is because of the well-known expansion of judicial review during this period. But the shift has as much to do with changes in the legal profession, legal theory, and lawyers' roles in agency administration. The result is that administrative constitutionalism may still be the most frequent form of constitutional governance, but it has grown, paradoxically, more suspect even as it has also become far more dependent on and deferential to judicial interpretations.24

The history of administrative constitutionalism offered here is likely to trouble those who seek to restore administrative law to its nineteenth-century foundations (whom I will call "foundationals").25 They are unlikely to find appealing a nineteenth century in which agencies took the lead in deciding constitutional questions, subject to some oversight by Congress and the President, but virtually none by the courts. These critics hold out constitutional law as uniquely important: that law is what powers their arguments that the United States should turn back the clock. And they prefer nineteenth-century agencies because they depict them as exercising little consequential legal power.26 But this history suggests that those agencies had the first and often final word on the Constitution's meaning. Foundationalists also assume that reinstating the nineteenth-century constitutional order would empower courts to more closely scrutinize agency action.27 The history presented here instead suggests that it would all but eliminate judicial review of those actions' constitutionality. Indeed, the burgeoning history of administrative constitutionalism indicates that anyone who wants to ensure that courts review the constitutionality of agency action has to appeal to theories that are rooted in constitutional evolution, not origins, and in twentieth—not nineteenth—century administrative law and judicial practice.

19 See Gregory Ablavsky, Beyond the Indian Commerce Clause, 124 YALE LJ. 1012,1018-19 (2015) [hereinafter Ablavsky, Beyond] (arguing that early American executive branch actors "gave concrete meaning to the Constitution s sparse framework ," thereby establishing "federal authority over Indian affairs"); Kristin A. Collins, Illegitimate Borders: Jus Sanguinis Citizenship and the Legal Construction of Family, Race, and Nation^ 123 YALE LJ. 2134, 2141-42 (2014) [hereinafter Collins, Illegitimate Borders] (arguing that administrators played a key role in encoding "nativist policies" into the definition of citizenship); Sam Erman, Citizens of Empire: Puerto Rico, Status, and Constitutional Change, 102 CALIF. L. REV. 1181, 1183 (2014) (arguing that administrators, not only courts, played a key role in shifting "the constitutional order . . . from according U.S. citizenship and robust rights to all nontribal U.S. people and toward acceptance of U.S. colonialism"); Jeremy Kessler, The Administrative Origins of Modern Civil Liberties Law, 114 COLUM. L. REV. 1083, 1085 (2014) (arguing that executive branch officials "took the lead in forging" the modern understanding of civil liberties); Karen M. Tani, Administrative Equal Protection: Federalism, the Fourteenth Amendment, and the Rights of the Poor, 100 CORNELL L. REV. 825, 828-29 (2015) [hereinafter Tani, Administrative Equal Protection] (arguing that welfare officials developed and implemented a novel interpretation of how equal protection governed income assistance programs during the mid-twentieth century); see generally KAREN M. Tani, States of Dependency: Welfare, Rights, and American Governance, 1935-1972 (2016) [hereinafter TANI, STATES OF DEPENDENCY] (recounting multiple examples of agency officials interpreting and implementing the Constitution).

## Politics DA

#### Biden’s continued PC is key to pass Build Back Better next week – despite inflation concerns

Barrón-López 11-11 (Laura Barrón-López, White House Correspondent for Politico, formerly covered Congress for the Washington Examiner, HuffPost and The Hill, BA political science, California State University, Fullerton, “Dems to White House: The only prescription is more Biden,” Politico, 11-11-2021, <https://www.politico.com/news/2021/11/11/dems-white-house-biden-520946>)

After months of deference to Congress, President Joe Biden moved more assertively last week to shepherd half his domestic agenda into law. With the other half still in limbo, Democrats want some of that Biden punch again.

Outside groups fear that congressional Democrats could come up short on Biden’s social spending package. They are concerned that moderates in the House may end up buckling if the budget scores on the bill come back worse than anticipated. And there is residual anxiety that one of the two wavering Senate Democrats — Joe Manchin of West Virginia and Kyrsten Sinema of Arizona — could vote “no” over concerns about inflation and long-term debt.

The clearest solution to avoiding this, they argue, is more Biden.

“All eyes are on the president, all expectations are on the president,” said Lorella Praeli, co-president of the progressive Community Change Action. “We are playing our role. We are mobilizing. We're reminding people everyday what this is about.”

Praeli added that Biden must ensure there aren’t future cuts to the package, which dropped from $3.5 trillion to $1.75 trillion to accommodate centrist Democrats in the House and Senate. “This is what he campaigned on. Only the president can deliver it in the end.”

Until last week, Biden’s involvement in negotiations had been more deferential than managerial. That befuddled lawmakers, who were waiting for him to draw red lines about which priorities he wants in and out of the deal or to even demand votes. To date, Biden has publicly refrained from drawing a red line around including paid leave in the final version of the legislation, leaving the leadership in the House at odds with centrists in the Senate.

But Biden did ramp up his involvement in the negotiations last week. And Democrats viewed that as key to getting an agreement in the House on their infrastructure bill, as well as on a rule to move forward with their social spending package, which funds universal pre-K, expands Medicare access, cuts taxes for families with children 18 years old and under, and combats climate change.

Now they want more. Expectations are high for Biden to keep the House to its promise of a vote on that social spending plan the week of Nov. 15.

“They basically made a promise,” said Rahna Epting, executive director of the progressive advocacy group MoveOn. “And Biden was able to get enough progressives to vote for the bipartisan infrastructure bill, on that promise. We are expecting Biden and the Democratic Caucus will make good on their word and pass the Build Back Better Act no later than Nov 15th as stated.”

White House officials contend that Biden and his team remain in close touch with the Hill, and their legislative affairs staff continues to push the social spending bill toward a vote. The White House said it is communicating regularly with a range of lawmakers including Manchin, but did not answer when asked whether Biden has spoken to the West Virginia senator or other moderates in recent days.

“There has been no kind of slowdown when it comes to our Hill outreach,” a White House official said.

The growing demands for Biden to stay heavily involved reflect a fear in the party that the window to act on the agenda is quickly closing, especially as concerns mount about lingering inflation and the midterms near. If the House meets its deadline next week and passes the social spending bill, some Democrats want Biden to issue a deadline for the Senate to act. Others noted that the end-of-year legislative calendar is short and brutal.

The “dynamic has totally changed,” said a Democratic strategist. “The president secured this agreement with the five holdouts for House passage of BBB next week and it’s on him to enforce it.”

A top climate operative echoed that assessment telling POLITICO that Biden “will have failed” on tackling climate change if the second piece of the agenda doesn’t pass.

But the operative also expressed a newfound fear that Biden’s current effort to sell the benefits of the infrastructure bill could distract or complicate Democrats’ attempt to keep public interested in the social spending plan.

"They need to sell [physical infrastructure] but also act like it's not enough," said the activist.

"How are they also creating the urgency for BBB to get done, for it to stay on the timeline of getting it done by Thanksgiving? It's a balancing act.”

Matt Bennett, co-founder of the moderate group Third Way, agreed that the dynamics were “tricky” in trying to sell one just-passed bill as historic while simultaneously making the case that another ambitious bill is needed. Biden will travel to New Hampshire and Michigan next week to highlight the money the infrastructure bill will direct toward new roads, bridges and transit projects across the country.

“This moment that we're in is hard,” said Bennett. “It will be much, much easier when both bills are completed. There is a very profound political imperative for Democrats to get this finished, to end the infighting and sausage-making and shift to creating a narrative about what Democrats have just done for Americans because they've been utterly unable to do that.”

A number of groups plan to amp up pressure next week as Congress returns. House Speaker Nancy Pelosi and the White House have repeated their desire to have a vote on the social spending plan by the end of next week. The Service Employees International Union will descend on Capitol Hill with some 500 union members, said Mary Kay Henry, the union’s president.

“We are escalating phone calls, text messages,” said Henry. “We're bringing members into Washington next Tuesday, we have the president's back, to get Congress to act quickly and get the full back package.”

Democratic outside groups have spent more than $150 million on TV and digital ads promoting the president’s social spending plan, known as “Build Back Better.” The League of Conservation Voters and Climate Power launched new digital ads calling on the five moderates who reached an agreement with the White House and House leadership last week to follow through on their commitment to pass the second piece of Biden’s economic agenda “next week.”

The longer it takes to pass the social spending plan, the harder it becomes to keep the party unified, Democrats warn, especially amid up-and-down economic news. A new report Wednesday revealed inflation hit 6.2 percent in October, its highest point in 31 years, contributing to high gas, car and food prices. It forced Biden to quickly issue a statement addressing the issue and ever-so-slightly shift his messaging, arguing that passage of the social spending plan would combat inflation.

“Inflation hurts Americans’ pocketbooks, and reversing this trend is a top priority for me,” Biden said in a statement. “It is important that Congress pass my Build Back Better plan, which is fully paid for and does not add to the debt, and will get more Americans working by reducing the cost of child care and elder care, and help directly lower costs for American families.”

#### Plan is controversial and sucks up PC

Gustin 21 – [Georgina Gustin - covers agriculture for Inside Climate News, April 2nd 2021, “Big Meat and Dairy Companies Have Spent Millions Lobbying Against Climate Action, a New Study Finds”, <https://insideclimatenews.org/news/02042021/meat-dairy-lobby-climate-action/>, eph]

Top U.S. meat and dairy companies, along with livestock and agricultural lobbying groups, have spent millions campaigning against climate action and sowing doubt about the links between animal agriculture and climate change, according to new research from New York University. The study, published this week in the journal Climatic Change, also said the world’s biggest meat and dairy companies aren’t doing enough to curb their greenhouse gas emissions, with only a handful making pledges to reach net-zero emissions by 2050. “These companies are some of the world’s biggest contributors to climate change,” said Oliver Lazarus, one of the study’s three authors, now a doctoral student at Harvard University. “They’ve spent a considerable amount of time and money downplaying the link between animal agriculture and climate change.” The research, which builds on data first published in 2017 and 2018 by the advocacy group GRAIN and the Institute for Agriculture and Trade Policy (IATP), is the first peer-reviewed study to document the individual carbon footprints of meat and dairy companies. The authors found that, as of last summer, only five of the 35 companies—Dairy Farmers of America, Nestlé, Danish Crown and Danone and Arla—had pledged to reach net-zero emissions by 2050. JBS, Cargill, Hormel, Fonterra and Smithfield had not. China-based Smithfield has since pledged to be carbon-negative by 2030 and Brazil-based JBS, the world’s largest meat processor, announced last week that it would reach net-zero by 2040. A spokeswoman for Hormel said the company was “on a path to zero” and plans to set a target for greenhouse gas reductions by 2023. These commitments, the authors say, are short on specifics or focus on carbon dioxide reductions, while the bulk of emissions from animal agriculture comes from methane, an especially potent greenhouse gas. In some cases, the companies’ commitments don’t address emissions from their whole supply chain. JBS, for example, has said in public statements that it does not assess land-use change—a major source of agricultural greenhouse gases—from third-party suppliers. These are emissions, the company said in 2019, “over which the Company has no responsibility or indirect responsibility.” Overall, animal agriculture is responsible for more than 14 percent of global greenhouse gas emissions. According to calculations by GRAIN and IATP, the five largest livestock-based producers—JBS, Tyson, Cargill, Dairy Farmers of America (DFA) and Fonterra—emitted more greenhouse gases than ExxonMobil. The NYU researchers said they’re not aware of more recent and accessible company-level data, although a 2020 report from IATP found that emissions from individual dairy companies climbed in the years since the GRAIN assessment. Recent reports, including from the Intergovernmental Panel on Climate Change, have found that cutting emissions from agriculture is critical for controlling runaway climate change. But the new research found that only seven of the 16 countries where the largest livestock producers are based mention animal agriculture in their plans to meet the targets of the Paris climate agreement. While the Paris agreement focuses on individual country’s emissions—and their potential to reduce them—the authors of the new report looked at how these companies’ future emissions compared to the emissions reductions pledges of their home countries. They determined that emissions produced by Switzerland-based Nestlé, the world’s largest food company, and New Zealand-based dairy giant, Fonterra, were so high that they would eclipse their respective home country’s emissions pledges, in effect consuming the entirety of those countries’ emissions budgets. Denmark-based Arla, the largest producer of dairy products in Scandinavia, will account for 60 percent of Denmark’s total emissions. “Those meat and dairy emissions would actually completely wipe out the emissions (those countries) say they’re going to be emitting according to their Paris agreement pledges,” said Jennifer Jacquet, an associate professor in NYU’s Department of Environmental Studies and one of the authors. In taking this approach, the authors say, they’re assigning responsibility for greenhouse gas emissions to countries on a corporate basis. “The Paris agreement suggests that Brazil is responsible for what happens in Brazil. What we said was: What if Brazil was responsible for JBS or China for Smithfield?” Jacquet said. The authors said they were following the pattern of seminal studies on the fossil fuel industry, which calculated historic emissions from individual companies and then assigned responsibility to those companies. “Essentially what we’re trying to do is build out the climate responsibility of meat and dairy producers,” Jacquet said. A spokeswoman for Fonterra said its carbon footprint was “46% lower than other major milk producers” and that the company was “actively working on tools and technologies to reduce emissions and help New Zealand reach its climate change commitments.” Filling a Research Gap The next goal of the study, Jacquet said, was to examine how these companies and their lobbying groups have fought climate regulation in Congress and before the Environmental Protection Agency, and to analyze how they’ve shaped a narrative around animal agriculture’s role in climate change. The authors calculated that U.S. agribusiness, which includes meat and dairy companies and also other agricultural companies, spent $750 million on national political candidates from 2000 to 2020. The U.S. energy sector, by comparison, spent $1 billion. The same agribusinesses spent $2.5 billion on lobbying from 2000 and 2019, compared to $6.2 billion by energy and natural resource companies. The authors said these companies also spent their lobbying money on issues beyond climate change, including the Farm Bill and farm subsidies. But, they wrote, “it is often difficult to disentangle the two as policy decisions on crop incentives, land-use, and animal production methods have large implications for the extent and intensity of the animal agriculture sector’s emissions.” The report also looked at the contributions of individual companies. Exxon spent roughly $17 million on political campaigns and more than $240 million on lobbying during the 20 years studied. In the same time frame, Tyson gave $3.2 million to political campaigns. But relative to each company’s revenue, Tyson spent double what Exxon spent on political campaigns and 33 percent more on lobbying. Industry lobby groups—the National Cattlemen’s Beef Association, the National Pork Producers Council, the North American Meat Institute, the National Chicken Council, the International Dairy Foods Association and the American Farm Bureau Federation, along with its state members—spent nearly $200 million, much of it lobbying against climate and environmental regulations, from 2000 to 2019, the authors found. A spokesperson for the National Pork Producers Council said the organization voted against a cap-and-trade bill specifically because it “would have converted massive amounts of cropland to forest” at a time when pork producers were already struggling to gain access to feed. The National Cattlemen’s Beef Association and the North American Meat Institute (NAMI), the new study said, published or funded research downplaying the emissions from livestock production, often pointing to the low percentage relative to overall U.S. emissions. Sarah Little, a spokeswoman for NAMI, said the report referenced outdated documents. “NAMI members are at the forefront of research and innovation to strengthen meat’s contributions and ambitious commitments to healthy diets and protecting our environment. The U.S. meat sector has dramatically reduced its impact on the environment in recent decades, including by reducing greenhouse gas (GHG) emissions…. This study was already outdated the day it was researched.” The nine U.S.-based companies covered in the report emitted 6 percent of overall U.S. emissions, the study found, but emitted about 350 million metric tons of carbon dioxide. That’s on the same scale as Brazil, which has the highest carbon footprint from animal agriculture and where the top four livestock companies emitted about 380 million metric tons of the greenhouse gas annually. But that amounts to about 28 percent of that country’s emissions. “The US industry really leans on Brazil’s terrible carbon footprint to compare to its own,” Jacquet said, but domestic agriculture is “high in terms of absolute emissions.” The report also notes that the U.S. companies’ emissions totals presented in the study don’t include those connected to production outside of the U.S. The authors pointed out in an interview that there’s been ample academic research into the fossil fuel industry’s attempts to influence public discourse, but that a similar body of research into the agriculture industry’s efforts has not yet emerged. That could largely be attributed, they said, to the fact that very little agricultural research is done outside of industry-influenced universities or by independent researchers. “It’s not surprising that they’re this active in shaping climate discourse,” Lazarus said, referring to the livestock companies. “What we’re trying to do is show the extent to which that has largely been ignored.”

### 1NC – Climate !

#### PC’s key to global follow-through on climate post-Glasgow summit – impact’s extinction

Chon 11-8 (Gina Chon, Columnist at Reuters Breakingviews, former US Regulatory and Enforcement Correspondent, Financial Times, BS Journalism, Northwestern University, “America’s swing senator can save or scorch planet,” Reuters, 11-8-2021, <https://www.reuters.com/breakingviews/americas-swing-senator-can-save-or-scorch-planet-2021-11-08/>)

The health of the planet hangs somewhere over West Virginia. Joe Manchin, one of the coal state’s senators, is in line to cast the deciding vote on President Joe Biden’s $1.8 trillion “Build Back Better” spending plan. He’ll indirectly be voting on Biden’s ability to influence other countries to fight climate change after the COP26 summit read more.

Biden has faced two main challenges to his spending plan, a companion to the $1 trillion infrastructure legislation Congress approved on Friday. One objection comes from lawmakers worried about the amount of money at stake. After an earlier compromise, climate change initiatives are the biggest chunk of the overall blueprint at $555 billion, more than half of which comes from tax credits for cleaner vehicles and manufacturing. Manchin is already a self-confessed budget worrier.

The other obstacle is unease around specific climate initiatives. Manchin hails from a state with less than 2 million residents, but a heavy reliance on coal. His disapproval helped squash Biden’s proposal for a Clean Electricity Performance Program that would have incentivized utilities to stop using oil, coal and gas. The goal was for 80% of electricity produced in the country to come from clean sources by 2030, compared to the current 40%.

Green-energy tax credits are still on the table and offer a bigger bang for the taxpayer’s buck than the clean electricity program, think tank Resources for the Future estimates. By 2030 they would get the United States to 69% of its electricity coming from clean sources.

Manchin has good reason to keep those tax credits alive. While West Virginia is the second-largest coal producer in the United States and top five in natural gas, according to the U.S. Energy Information Administration, it’s also one of the states most exposed to damage from climate change. More than 60% of its power stations are at risk from a so-called 100-year flood, according to the First Street Foundation.

The senator’s decision will have global repercussions. China, India read more and other countries are only likely to listen to Biden’s pleas to help fight climate change if he looks able to meet such pledges himself. For example, the president wants other countries to help cut methane emissions by 30% this decade, but would still need Manchin’s support to levy fines on U.S. methane-leakers, which is far from guaranteed. For such a small population, West Virginia has a huge responsibility.

## Case

## Adv 1

#### The ag industry is facing an inevitably credit collapse – zeros the aff but the cp can solve

Willingham 21 – [Caius Z Willingham - researches rural economic development and analyzes economic concentration and antitrust policy, with an eye toward its impacts on workers, farmers, and small businesses, January 14th 2021, “Promoting Climate-Resilient Agricultural and Rural Credit”, <https://www.americanprogress.org/issues/economy/reports/2021/01/14/494574/promoting-climate-resilient-agricultural-rural-credit/>, eph]

The implications of a climate farm crisis on agricultural lenders

Although the ripples caused by a climate-related agricultural downturn would be widespread, any impacts would be felt most acutely by firms that specialize in agricultural lending.43 Namely, community banks in farm country may be forced to fold, potentially leaving some rural communities without easily accessible credit or banking services. Similarly, if the magnitude of the climate crisis is catastrophic, the Farm Credit System could face the risk of insolvency, as was the case during the 1980s farm crisis—a prospect that would necessitate a sizable infusion of federal dollars. Policymakers should act now to prepare for the impact of climate change on agricultural lending in order to ensure that farmers and ranchers will continue to be able to access capital.

Commercial banks

As climate change hits America’s farms and deals historic damage to the agricultural economy, banks will surely feel the pain of farm bankruptcies. Though the crop insurance system will absorb some of the damage of climate destruction, only a quarter of U.S. production value is covered by crop insurance.44 Moreover, the insurance sector itself has significant climate risk exposures as well. Agribusinesses and food processors will also likely take a hit indirectly as climate-induced disasters disrupt their supply chains, broadening the impact throughout the financial sector.

Climate change may render portions of U.S. farmland unproductive, while other U.S. farmers and ranchers are forced to quickly adapt their practices and crops to shifting climates. The current value of U.S. farmland is about $2.5 trillion.45 As the climate crisis drives down the productivity—and, therefore, the value—of some farmland, it may render loan exposures in the sector impaired.46 These real estate assets will, in some sense, become an impaired or “stranded” asset—one that has lost some or all of its value. Impaired assets may need to be written down in value, which could affect the capital of the banks that made those loans. The implications of this are grave; the 1980s farm crisis was in part instigated by a precipitous drop in farmland values.47 Firms with large agricultural exposures, such as community banks in certain rural areas, may be especially vulnerable. About half of all farm loans are held by commercial agricultural lenders—defined as having at least 25 percent of their portfolio consist of agricultural investments.48 These specialized banks are less likely to have a diverse enough portfolio to withstand a wave of farm bankruptcies, putting them at higher risk of insolvency in the event of a farm economy crash.

While about half of large financial institutions incorporate climate change in their risk assessments, farm lenders are much less likely to engage in this practice.49 However, even for firms that do incorporate climate into their risk assessments, banking supervisors and market regulators have not put in place the oversight and transparency tools to give regulators and investors the insight necessary for effective risk management and, ultimately, to contribute to the reduction of climate as a systemic risk through reducing the financing of fossil fuels and carbon-intensive industrial processes. Moreover, when financial firms do incorporate climate change in their risk assessments, the factors they choose may not be sufficiently comprehensive to capture the whole picture. In contrast, the Bank of England has developed a thorough framework for evaluating the U.K. finance sector’s resilience to climate change under a range of scenarios.50

Public risks

As discussed earlier in this report, the agricultural credit system is marked by extensive government involvement in order to facilitate credit access and mitigate the risk inherent to farming. Because it lends directly to farms, guarantees loans, chartered the FCS, and established Farmer Mac, the federal government has a huge stake in promoting a resilient farm lending system. Consequently, taxpayers will be on the hook for some amount of financial stabilization if the farm economy is severely affected by the stress of climate change.

The most direct financial injury to the federal government in the event of a climate-instigated farm economy collapse would be the cost of defaults on the loans the USDA and other agencies either disbursed directly to farmers or guaranteed. The Farm Service Agency alone holds about $11.8 billion in farm debt, not to mention the smattering of smaller loan programs throughout the USDA and beyond.51 For example, the Small Business Administration’s 7(a) lending program also lends to farming operations in significant volumes. For example, in 2019, the SBA determined that highly integrated poultry operations do not qualify as independent small businesses after an Office of Inspector General examination discovered that about $1.8 billion in loans were made to chicken growers who were in fact affiliated with monopolistic poultry integrators rather than independent operations.52 Through programs such as these, the federal government assumes a significant amount of liability.

The 1980s farm crisis forced Congress to reform the public institutions responsible for agricultural lending, putting in place regulations and structures that unquestionably provide a crucial buffer against future economic upheavals. However, the oncoming climate crisis is likely to rival even the crash of 1980 in its severity. The 1980s farm crisis and the resulting wave of bankruptcies and defaults threw the FCS off-kilter, and Congress was forced to swoop in with $4 billion of relief to stabilize it.53

Although several reforms, such as the creation of the secondary loan market through Farmer Mac, have served to bolster the integrity of the farm credit market, climate change may serve as the first real test of the efficacy of these institutions since the 1980s. Currently, the stress test Farmer Mac undergoes only requires it to use default rates on par with the worst two consecutive years in its past.54 By definition, this stress test does not anticipate the damage that climate change might deal the financial sector in the coming years.

Any of these big en threats we can solve with tech advances that the plan is not key to bring about- we are going to make tech to solve the impacts if they are that impactful- don’t need the plan

### Industrial Ag Good – 1NC

#### Expanding industrial ag is necessary to sustain productivity gains – that solves growth and starvation and turns the environment

**Nordhaus 15** [Ted Nordhaus, economist and Sterling Professor of Economics at Yale University, “The Environmental Case for Industrial Agriculture,” The following keynote address was delivered by Ted Nordhaus at the first annual Institute for Food and Agricultural Literacy Symposium on June 3, 2015, http://thebreakthrough.org/index.php/issues/food-and-farming/the-environmental-case-for-industrial-agriculture]

First, and most importantly, the food system globally needs to grow enough food to meet the basic nutritional needs of somewhere in the vicinity of nine billion people by the middle of this century. While the discussion in recent years about food and nutrition in the United States has been heavily focused on obesity, the reality is that much of the world still needs to consume more calories, not less. Nearly a billion people globally still struggle to meet their basic, daily caloric needs. Several billions more are just beginning to consume modest levels of dietary protein and fat. Suffice to say that the daily ration of farm-fresh vegetables that for so many of us symbolizes a healthful diet is still beyond the means of most people on the planet. Second, the food system needs to liberate most of the global population from work on the farm and all of it from subsistence agriculture. When people leave the land and move to the city, life expectancy, education, and incomes rise. Fertility rates decline as women can find work outside of the home and children can go to school rather than working in the fields. Manufacturing and industrialization bring greater societal wealth, infrastructure, and higher wages. By virtually every quantifiable economic, health, education, and environmental metric, life improves when people move to the city, even as it brings new challenges. Third, we need to accelerate the long-term processes of growing more food on less land. Meeting rising food demand for a global population that will continue to grow for at least the next several decades, without converting virtually all of our remaining forests and grasslands to agriculture, will require that we grow food ever-more efficiently. Making more room for nature will, perhaps counterintuitively, require that we use the land on which we produce food more exclusively for production. A world with more forests, grasslands and wetlands, and more biodiversity within them, will require less biodiversity in our fields. Finally, raising yields while reducing environmental impacts will require that we farm with ever-greater precision. Raising yields through greater application of technology has often meant more pesticides, fertilizer, and water. But as technology has improved, these trends have begun to reverse. Measured in relationship to agricultural output, nitrogen and water use on US farms has peaked and is now declining. The same is true in other advanced developed economies. Better seeds, irrigation systems, and application practices are allowing for much more precise delivery of inputs when and where plants need them and where they don’t. All of those trends will need to be accelerated.

**Industrial ag prevents extinction.**

**Combest ’16** (Larry; 1/21/16; Former Representative, citing agricultural witnesses; The Hill, “The rising importance of food to America's national security,” <http://thehill.com/blogs/pundits-blog/homeland-security/266549-the-rising-importance-of-food-to-americas-national>; RP)

Among the witnesses offering testimony was Ambassador John Negroponte, former U.S. deputy secretary of State, who discussed what he called "**agricultural megatrends**" that come packed with homeland and global security implications. Negroponte, of course, served in senior diplomatic and national security advisory roles under four of the past five American presidents, beginning with President Reagan. Negroponte spoke to "the pressing need to feed the future world of **9 billion people**," observing that "the world must **increase food production** by 50 to 60 percent to satisfy expected global **population growth** and changing consumption patterns by 2050." While I have read other sources approximating that a 70 percent increase is more on the mark of what will be needed, any of these required increases in food production within this space of time is wake-up call enough, even for those of us who have experienced firsthand the **unprecedented increases** in yields many American farmers have experienced over the past 30 years thanks in large part to the **biotechnology** pioneered by Dr. Norman Borlaug, father of the "Green Revolution." The anticipated increase in population and the corresponding need for more food, Negroponte notes, also result in "**rising competition** for limited resources such as **waters** and **arable land**" that, he says, "could affect political stability" and even "**shift military priorities**." Negroponte goes on to point out that this situation could, for example, "fuel further **instability in the Middle East**, where water scarcity in particular has the potential to **aggravate interstate conflict**." Down the road, vulnerable U.S. allies, Negroponte stresses, may well depend on America to secure their food supplies. At the same time that global population is expected to grow by some **28 percent** and an emerging middle class in developing countries uses greater disposable incomes to enhance diets, some in richer countries, particularly those of Europe, but increasingly here at home, too, are rejecting the very food science that allowed Borlaug to save billions of human lives and millions of acres of pristine lands in favor of production systems that use more resources while producing less food. Of this, Negroponte warns, "If science skepticism accelerates, this could undermine our ability to **increase production** enough to feed the world." While Negroponte's testimony did not touch upon legislation pending in Congress to create a federal preemption vis-a-vis state and local biotech labeling regimes that, against all science, seek to stigmatize the **breakthrough technologies** that have been widely utilized by farmers and that are **absolutely indispensable** to feeding future generations, anyone listening carefully could hear the canary in the coal mine. By opposing federal preemption, those agitating against all food science would have lawmakers awkwardly welcome Borlaug's statue to the Capitol even as they effectively throw out the lifesaving policies that earned him his place in Statuary Hall. In assessing what all might be done to "enhance both national and **global security**," Negroponte spoke directly to the "need to find a way to encourage agriculture and food policy to align with science on such issues as biotechnology." But Negroponte also spoke to the need to assess "counterproductive policies that tax producers and **undermine food availability**."

## Adv 2

#### Their “impact” card is just a laundry list of alt causes to democracy

Nicholas Scotchie, 6-30-2021, [Nicholas Scotchie, Fordham College at Lincoln Center ’24, is a staff writer for the opinions section at The Observer], "The Collapse of American Democracy Will Mirror the Weimar Republic," Observer, <https://fordhamobserver.com/60009/opinions/the-collapse-of-american-democracy-will-mirror-the-weimar-republic/>, Xoxo 6.30.2021

Many Americans view their country through rose-colored glasses. More often than not, they envision its demise in a similarly romanticized fashion. America is supposed to collapse like the Roman republic it is still seeking to emulate, with factions seceding, the military taking sides and cabals of politicians scheming their next moves. America’s collapse will be slow, confusing and far more destructive than anyone could imagine. However, America in practice is a more modern and ungainly rendition of the Weimar Republic, Germany’s doomed experiment in democracy in the 1920s, which was plagued by violence and political instability before falling to Adolf Hitler. Much like that ill-fated nation, America’s collapse will be slow, confusing and far more destructive than anyone could imagine. Like Weimar Germany, the United States has experienced a growing list of economic and social calamities over the past decades. Income inequality was growing even before the pandemic and is only accelerating as poor and minority workers bear the brunt of the economic turmoil. Basic needs like food, housing and health care have become increasingly unattainable for a large number of people. just as the Weimar government proved ineffective in dealing with its economic catastrophe of the Great Depression, our leaders have also proven cold and distant as they fail to approve deeply needed economic assistance. There are certainly differences between the current state of American politics and the Weimar Republic. Our institutions are older and more tested. While the 1920s never allowed for a genuinely peaceful political scene in Germany, the United States, for all of its many faults, was able to champion the peaceful transition from one administration to the next since 1800, even surviving a dramatic civil war. However, like the Weimar Republic, there has been an increase in political violence and extremism in 2020, as noted by the Center for Strategic and International Studies. Just as the presence of right-wing paramilitary organizations like the Freikorps and Der Stahlhelm led to the erosion of civil and democratic norms in Germany, our far-right groups, with the Oath Keepers and Proud Boys among the more prominent factions, have grown in number and ferocity. It was often the case that Germany’s extremists were related to the military or law enforcement, and modern-day insurrectionists followed suit by infiltrating police agencies across the country, a pattern that proved disastrous at the Capitol. We must also deal with unique dangers that other states which have failed in the past did not have to consider. Chief among them is the capacity for conspiracy theories and propaganda to disseminate across the internet on online message boards and platforms. Another problem we must face are the loose gun laws that have contributed to terroristic violence in the past. With the match lit by the former president and his accomplices, who incited their supporters at the rally in Washington that preceded the storming of the Capitol, the earlier chaos was all but inevitable. I cannot undersell the danger posed by the mob that stormed into the chambers of Congress. While many of those who broke into the Capitol seemed listless once actually inside the building, there were many among them with weapons and flex cuffs, chanting threats of violence against former Vice President Mike Pence and members of Congress. While senators and representatives reassured their constituents that the republic was strong as the mob was being cleared from the Capitol late that Wednesday night, we shouldn’t give in to knee-jerk optimism. Yet even after five people died in connection to the riots that engulfed the very building they debated in, several Republican senators and over 100 Republican representatives voted against certifying the results of Arizona and Pennsylvania, feeding into the narrative of the rioters that the election of Joe Biden was not secure or legitimate. Perhaps the most frightening aspect of our political destabilization is the fact that many Republicans and conservatives, like the forces that toppled Germany and other failed states in the past, have embraced anti-democratic ideas, with multiple polls showing a significant percentage of the population supporting the actions of the insurrectionists. While senators and representatives reassured their constituents that the republic was strong as the mob was being cleared from the Capitol late that Wednesday night, we shouldn’t give in to knee-jerk optimism. Even if the storming of the Capitol building proves to be a one-off occurrence, that day’s events still validate the use of violence and obstruction to overturn the results of democratic elections for many Americans. While the inauguration of Joe Biden was conducted peacefully, albeit under the presence of a heavily armed National Guard, the radicalization runs too deep to be dealt with so easily, as seen in the removal of 12 National Guard members over extremist warnings. As America steps back from the brink of chaos and reflects upon the damage and destruction, there is little doubt that without drastic reforms that address both the present dangers and their underlying causes, the republic may be compromised for years to come.

#### Big tech’s an alt cause – digital authoritarianism and control of information dominates our lives more than ag

Crawford 21 – [Matthew B Crawford – senior fellow at the University of Virginia's Institute for Advanced Studies in Culture, June 29th 2021, “Big Tech’s threat to democracy”, <https://unherd.com/2021/06/big-techs-threat-to-democracy/>, eph]

The convenience of the smart home may be worth the price; that’s for each of us to decide. But to do so with open eyes, one has to understand what the price is. After all, you don’t pay a monthly fee for Alexa, or Google Home. The cost, then, is a subtle one: a slight psychological adjustment in which we are tipped a bit further into passivity and dependence.

The Sleep Number Bed is typical of smart home devices, as Harvard business school Professor Shoshana Zuboff describes in The Age of Surveillance Capitalism. It comes with an app, of course, which you’ll need to install to get the full benefits. Benefits for whom? Well, to know that you would need to spend some time with the 16-page privacy policy that comes with the bed. There you’ll read about third-party sharing, analytics partners, targeted advertising, and much else. Meanwhile, the User Agreement specifies that the company can share or exploit your personal information even “after you deactivate or cancel … your Sleep Number account.” You are unilaterally informed that the firm does not honor “Do Not Track” notifications. By the way, the bed also transmits the audio signals in your bedroom. (I am not making this up.

The business rationale for the smart home is to bring the intimate patterns of life into the fold of the surveillance economy, which has a one-way mirror quality. Increasingly, every aspect of our lives — our voices, our facial expressions, our political affiliations and intellectual predilections — are laid bare as a data to be collected by companies who, for their own part, guard with military-grade secrecy the algorithms by which to use this information to determine the world that is presented to us, for example when we enter a search term, or in our news feeds. They are also in a position to determine our standing in the reputational economy. The credit rating agencies and insurance companies would like to know us more intimately; I suppose Alexa can help with that.

Allow me to offer a point of reference that comes from outside the tech debates, but can be brought to bear on them. Conservative legal scholars have long criticized a shift of power from Congress to the administrative state, which seeks to bypass legislation and rule by executive fiat, through administrative rulings. The appeal of this move is that it saves one the effort of persuading others, that is, the inconvenience of democratic politics.

All of the arguments that conservatives make about the administrative state apply as well to this new thing, call it algorithmic governance, that operates through artificial intelligence developed in the private sector. It too is a form of power that is not required to give an account of itself, and is therefore insulated from democratic pressures.

In machine learning, an array of variables are fed into deeply layered “neural nets” that simulate the binary, fire/don’t-fire synaptic connections of an animal brain. Vast amounts of data are used in a massively iterated (and, in some versions, unsupervised) training regimen. Because the strength of connections between logical nodes is highly plastic, just like neural pathways, the machine gets trained by trial and error and is able to arrive at something resembling knowledge of the world. The logic by which an AI reaches its conclusions is impossible to reconstruct even for those who built the underlying algorithms. We need to consider the significance of this in the light of our political traditions.

When a court issues a decision, the judge writes an opinion in which he explains his reasoning. He grounds the decision in law, precedent, common sense, and principles that he feels obliged to articulate and defend. This is what transforms the decision from mere fiat into something that is politically legitimate, capable of securing the assent of a free people. It makes the difference between simple power and authority. One distinguishing feature of a modern, liberal society is that authority is supposed to have this rational quality to it — rather than appealing to, say, a special talent for priestly divination. This is our Enlightenment inheritance. It appears to be in a fragile state. With the inscrutable arcana of data science, a new priesthood peers into a hidden layer of reality that is revealed only by a self-taught AI program — the logic of which is beyond human knowing.

The feeling that one is ruled by a class of experts who cannot be addressed, who cannot be held to account, has surely contributed to populist anger. From the perspective of ordinary citizens, the usual distinction between government and “the private sector” starts to sound like a joke, given how the tech firms order our lives in far-reaching ways.

Google, Facebook, Twitter and Amazon have established portals that people feel they have to pass through to conduct the business of life, and to participate in the common life of the nation. Such bottlenecks are a natural consequence of “the network effect.” It was early innovations that allowed these firms to take up their positions. But it is not innovation, it is these established positions, and the ongoing control of the data it allows them to gather, that accounts for the unprecedented rents they are able to collect, as in a classic infrastructure monopoly. If those profits measure anything at all, it is the reach of a grid of surveillance that continues to spread and deepen. It is this grid’s basic lack of intelligibility that renders it politically unaccountable. Yet accountability is the very essence of representative government.

Mark Zuckerberg has said frankly that “In a lot of ways Facebook is more like a government than a traditional company.” If we take the man at his word, it would seem to raise the question: can the United States government tolerate the existence of a rival government within its territory?

In 1776, Americans answered that question with a resounding ”No!” and then fought a revolutionary war to make it so. The slogan of that war was “don’t tread on me.” This spirited insistence on self-rule expresses the psychic core of republicanism. As Senator Amy Klobuchar points out in her book Antitrust, the slogan was directed in particular at the British Crown’s grant of monopoly charters to corporations that controlled trade with the colonies.

Today, the platform firms appear to many as an imperial power. The fundamental question “who rules?” is pressed upon America once again.

#### OR Democracy resilient – overwhelming public backing supports gains

Wollack 16 ---- Kenneth, president of the National Democratic Institute, former co-editor of the Middle East Policy Survey, former senior fellow at UCLA’s School for Public Affairs, “How Resilient is Democracy?” This text is the transcript from an interview with Alexander Heffner, PBS – The Open Mind, 10/15, <http://www.thirteen.org/openmind/government/how-resilient-is-democracy/5553/>

Well I think we’re seeing a number of phenomena that take place. Um, first of all you have new democracies around the world, that are struggling to deliver for its people. New institutions, political institutions that for the first time have legitimacy among the people, but in order to succeed and sustain their democratic system, they have to deliver on quality of life issues for, for the entire population. And if those institutions don’t deliver in many of these new democracies that have emerged over the last forty years, uh, then you’re gonna see backsliding and people will either go to the streets or vote for a populist demagogue who promises to bring sort of instant solutions to their problems. And then in non-democratic countries, you have what is called authoritarian learning, and that is autocrats today that are smarter than they were before, uh, that are fearful of diffusion of political power, uh, fearful of losing power themselves. Um, and they are using uh, traditional means and new legal means in which to repress the population, prevent the emergence of civil society, and not to speak of opposition political parties. And then you have a situation that you see in a number of countries in the Middle East where you have a sectarian strife and conflict. Uh, but in all of these situations, what you find is democratic resilience. That people around the world basically want the same thing. They want to put food on their table, uh, they want to have jobs and shelter and they want a political voice. And that, those aspirations and those hopes, uh, and those desires as I said are universal, and if you look at public opinion polls around the world, uh, people do want to have democratic systems that allow them to participate in the political life of their country. And that is, we are in the optimism business, and we believe in people and I think that ultimately those efforts, um, will, will succeed. But they need a lot of support, they need backing, um, uh, in order for uh, some very brave and courageous people to, to move the democratic for—uh, process forward in some of the most unlikely places in the world.

#### Democracy doesn’t cause peace – statistical models are spurious and don’t assume economic growth

Mousseau, 12 (Michael – Professor IR Koç University, “The Democratic Peace Unraveled: It’s the Economy” International Studies Quarterly, p 1-12)

Model 2 presents new knowledge by adding the control for economic type. To capture the dyadic expectation of peace among contract-intensive nations, the variable Contract- intensive EconomyL (CIEL) indicates the value of impersonal contracts in force per capita of the state with the lower level of CIE in the dyad; a high value of this measure indicates both states have contract-intensive economies. As can be seen, the coefficient for CIEL ()0.80) is negative and highly significant. This corroborates that impersonal economy is a highly robust force for peace. The coefficient for DemocracyL is now at zero. There are no other differences between Models 1 and 2, whose samples are identical, and no prior study corroborating the democratic peace has considered contractintensive economy. Therefore, the standard econometric inference to be drawn from Model 2 is the nontrivial result that **all prior reports of democracy as a force for peace are probably spurious, since this result is predicted and fully accounted for by economic norms theory.** CIEL and DemocracyL correlate only in the moderate range of 0.47 (Pearson’s r), so the insignificance of democracy is not likely to be a statistical artifact of multicollinearity. This is corroborated by the variance inflation factor for DemocracyL in Model 2 of 1.85, which is well below the usual rule-of-thumb indicator of multicollinearity of 10 or more. Nor should readers assume most democratic dyads have both states with impersonal economies: While almost all nations with contract-intensive economies (as indicated with the binary measure for CIE) are democratic (Polity2 > 6) (Singapore is the only long-term exception), more than half—55%—of all democratic nation-years have contract-poor economies. At the dyadic level in this sample, this translates to 80% of democratic dyads (all dyads where DemocracyBinary6 = 1) that have at least one state with a contract-poor economy. In other words, not only does Model 2 show **no evidence of causation from democracy to peace** (as reported in Mousseau 2009), but it also illustrates that this absence of democratic peace includes the vast majority—80%—of democratic dyad-years over the sample period. Nor is it likely that the causal arrow is reversed—with democracy being the ultimate cause of contract-intensive economy and peace. This is because correlations among independent variables are not calculated in the results of multivariate regressions: Coefficients show only the effect of each variable after the potential effects of the others are kept constant at their mean levels. If it was democracy that caused both impersonal economy and peace, then there would be some variance in DemocracyL remaining, after its partial correlation with CIEL is excluded, that links it directly with peace. The positive direction of the coefficient for DemocracyL informs us that no such direct effect exists (Blalock 1979:473–474). Model 3 tests for the effect of DemocracyL if a control is added for mixed-polity dyads, as suggested by Russett (2010:201). As discussed above, to avoid problems of mathematical endogeneity, I adopt the solution used by Mousseau, Orsun and Ungerer (2013) and measure regime difference as proposed by Werner (2000), drawing on the subcomponents of the Polity2 regime measure. As can be seen, the coefficient for Political Distance (1.00) is positive and significant, corroborating that regime mixed dyads do indeed have more militarized conflict than others. Yet, the inclusion of this term has no effect on the results that concern us here: CIEL ()0.85) is now even more robust, and the coefficient for DemocracyL (0.03) is above zero.7 Model 4 replaces the continuous democracy measure with the standard binary one (Polity2 > 6), as suggested by Russett (2010:201), citing Bayer and Bernhard (2010). As can be observed, the coefficient for CIEL ()0.83) remains negative and highly significant, while DemocracyBinary6 (0.63) is in the positive (wrong) direction. As discussed above, analyses of fatal dispute onsets with the far stricter binary measure for democracy (Polity = 10), put forward by Dafoe (2011) in response to Mousseau (2009), yields perfect prediction (as does the prior binary measure Both States CIE), causing quasi-complete separation and inconclusive results. Therefore, Model 5 reports the results with DemocracyBinary10 in analyses of all militarized conflicts, not just fatal ones. As can be seen, the coefficient for DemocracyBinary10 ()0.41), while negative, is not significant. Model 6 reports the results in analyses of fatal disputes with DemocracyL squared (after adding 10), which implies that the likelihood of conflict decreases more quickly toward the high values of DemocracyL. As can be seen, the coefficient for DemocracyL 2 is at zero, further corroborating that even very high levels of democracy do not appear to cause peace in analyses of fatal disputes, once consideration is given to contractintensive economy. Models 3, 4, and 6, which include Political Distance, were repeated (but unreported to save space) with analyses of all militarized interstate disputes, with the democracy coefficients close to zero in every case. Therefore, the conclusions reached by Mousseau (2009) are corroborated even with the most stringent measures of democracy, consideration of institutional distance, and across all specifications: The **democratic peace appears spurious**, with contract-intensive economy being the more likely explanation for both democracy and the democratic peace.

### AT: Geoengineering ! – 1NC

**(6) No geoengineering impact - Rogue SRM is impossible – too expensive or it’s not geographically feasible**

Florian **Rabitz 16**, Institute for International Relations, University of São Paulo, “Going rogue? Scenarios for unilateral geoengineering,” *Futures*, Volume 84, 2016, pp. 98-107

Cost estimates for SAI vary widely across different studies and delivery vehicles. One study considers the cost for aircraft delivery to amount to US$ 0.2–20 billion annually, with installation costs between US$ 1 and 30 billion; delivery via tethered stratospheric balloons would cost US$ 1–10 billion annually, with US$ 1–60 billion for installation; delivery via artillery shells or rockets will likely result in costs which are significantly higher (EUTRACE, 2015: 42). While aircraft delivery is thus the cheapest option, **the technical requirements are high**, as planes need to be able to carry full payloads into the stratosphere where aerosols will persist for up to two years due to horizontal winds (Hamilton, 2013: 59). Reaching the equatorial stratosphere, which commences at 18 km, is “at or **above the upper end of the operational range of most existing airplanes**” (Aurora, 2011: 22–23). While supersonic aircraft such as the decommissioned Concorde have service ceilings of 18 km and above, **no civilian models** are presently in use.

Several military aircraft possess both sufficient payloads and ceilings to reach the lower stratosphere in the polar region or at middle-latitudes. One study assesses cost projections for two different tanker jets, the KC-10 Extender and the KC-135 Stratotanker. A fleet of 9 and 15 units, respectively, would be sufficient for delivering 1 Mt of sulphur particles annually with operating costs of US$ 225 and 375 million, respectively (Robock et al., 2009). Those costs accordingly scale with the required injection volume, sometimes estimated at up to 10 Mt per year (NAS, 2015a: 79–84) more than twice the global lift capacity of FedEx (Aurora, 2011: 19). While the financial constraints may be overcome even by small states and non-state actors, procurement of military jets is **hampered by arms export legislation**. Cost constraints for modified civilian models are more substantial. With modifications, business jets could reach altitudes of above 18 km, with annual operating costs for the delivery of 1 Mt estimated to be between US$ 2.89 and 5.96 billion, depending on whether aerosols are dispersed only regionally or in transit flights along the Equator (Aurora, 2011: 38). While equatorial injections would achieve global coverage as the aerosols mix horizontally through the entire stratosphere until they reach the polar caps, the financial constraints on rogue actors intending to deploy sufficient amounts over a sustained period of time are thus significant, constituting a sizeable share of, or even **exceeding, the GDP of Small Island Developing States**.

Cost constraints may be overcome by injecting aerosols in the Arctic region where the lower stratosphere commences at about 8 km. Here, temperature changes are above the global average so that aerosols would protect against the loss of ice cover and methane releases. While in the reach of most commercially-available aircraft, this raises the problem of **geographical access**: aircraft would need to operate continuously within, or transit through, the airspace of states with relatively low vulnerabilities to climate change, or even economic stakes in the melting of Arctic ice to free up shipping routes or facilitate resource extraction (Borgerson, 2008). Arctic states thus have strong incentives to interfere with high-risk geoengineering activities in their vicinity. While the same arguably applies to other governments, any type of international response to unilateral action does not have a firm basis in international law as the legal status of SAI is ambiguous and, unlike for OIF, no enforcement measures are explicitly provided for. A robust mandate for interference would likely need to be based on a UN Security Council resolution.

# 2NC

### Politics DA

#### Plan is controversial and sucks up PC

Gustin 21 – their Edwards card is from 2000 and does not take into account Biden … its not happening now… didn’t have an answer during cross ex

## PTX Links

### Link – General

https://newrepublic.com/article/160205/can-biden-keep-promise-make-farms-climate-friendly

#### Breaking up big AG is politically charged

Wisconsin dairy farmer Sarah Lloyd believes she has the answer to a question that has convulsed the Democratic Party for the past four years. “People from the coasts are always like, ‘What’s going on with Wisconsin? How could they have possibly voted for Obama and then voted for Trump?’” she asks, putting on a falsetto to conjure the hysteria she often hears in such voices. On a chilly, overcast October afternoon, she lays out her theory at the 400-cow Columbia County farm she runs with her husband, which the couple recently considered shuttering after years of unsustainably low milk prices. A Democrat with a PhD in rural sociology, this third-generation farmer believes her party is sorely out of touch with an issue that resonates deeply in conservative heartland communities: countering the monopolistic level of corporate power that has emerged in agribusiness over the past 40 years.

“As the companies become bigger and more consolidated, it limits our ability to negotiate in the marketplace,” Lloyd explains, “which shows up in higher prices for our inputs”—seed, feed, fertilizer, tractor equipment, and so on. “It’s squeezing producers on all sides and making it difficult to stay afloat. We’re like little ants compared to these companies.” The GOP has not adequately addressed the issue either, she says, leaving an opening for Democrats. “Rural voters are like, ‘Give us something we can work with here.’”

President Barack Obama vowed to do exactly that during his 2008 campaign. He promised to enforce the Packers and Stockyards Act, 1920s-era antitrust legislation designed to put reins on meat companies that were racking up profits while farming families weathered oppressive levels of debt and the constant threat of bankruptcy. The law took aim at an early form of vertical integration in the livestock industry, in which companies were able to manipulate prices by controlling the production and the distribution of meat. A century later, the consolidation of the meatpacking industry in the hands of a few immensely profitable transnational corporations makes the 1920s seem quaint in comparison.

The law remains on the books, but over the years government oversight has grown exceedingly lax. After his election, Obama dispatched Secretary of Agriculture Tom Vilsack, the former governor of Iowa, to conduct a series of high-profile workshops on industry consolidation with farmers across the country. Lloyd recalls genuine excitement in rural corners that meaningful change was imminent. It turned out to be a “dog-and-pony show,” she says. “The Obama administration came out swinging and said they were going to get the DOJ to dig into the issue and try to create a level playing field. Nothing happened.”

While Democratic nominee Joe Biden’s platform discusses strengthening antitrust enforcement in agriculture, his approach to rural voters has consisted largely of pummeling Trump over his trade war with China and the economic pain it has inflicted on farmers. This summer, he told attendees of a virtual rally in Wisconsin, where dairy farms are shutting down at a rate of nearly two per day and farmer suicides are on the rise, that “Trump’s unmitigated tariff disaster” was to blame. While this has become a media mantra, the message may not resonate in rural communities the way the Democratic establishment seems to think.

Bill Bullard, the CEO of the Ranchers-Cattlemen Action Legal Fund, a conservative group working to stop anticompetitive practices in the meatpacking industry, says that’s because many farmers and ranchers favor protective tariffs. Free trade agreements have saturated the market with cheap imports, driving down the prices US farmers receive for their goods and promoting overproduction, he says.

“That is good for multinational agribusinesses”—it lowers costs, ensuring higher profits—“but it’s contrary to the economic interest of America’s farmers and ranchers and the rural communities they support,” says Bullard. “Free trade keeps prices below the cost of production. That’s why the average age of the American farmer is steadily increasing—young people can’t afford to get into the industry.”

### Link – Lobbyists

#### Ag lobbyists spend millions against the slightest regulatory change – they’ll make the fight politically costly and controversial

Gustin 21 – [Georgina Gustin - covers agriculture for Inside Climate News, April 2nd 2021, “Big Meat and Dairy Companies Have Spent Millions Lobbying Against Climate Action, a New Study Finds”, <https://insideclimatenews.org/news/02042021/meat-dairy-lobby-climate-action/>, eph]

Top U.S. meat and dairy companies, along with livestock and agricultural lobbying groups, have spent millions campaigning against climate action and sowing doubt about the links between animal agriculture and climate change, according to new research from New York University. The study, published this week in the journal Climatic Change, also said the world’s biggest meat and dairy companies aren’t doing enough to curb their greenhouse gas emissions, with only a handful making pledges to reach net-zero emissions by 2050. “These companies are some of the world’s biggest contributors to climate change,” said Oliver Lazarus, one of the study’s three authors, now a doctoral student at Harvard University. “They’ve spent a considerable amount of time and money downplaying the link between animal agriculture and climate change.” The research, which builds on data first published in 2017 and 2018 by the advocacy group GRAIN and the Institute for Agriculture and Trade Policy (IATP), is the first peer-reviewed study to document the individual carbon footprints of meat and dairy companies. The authors found that, as of last summer, only five of the 35 companies—Dairy Farmers of America, Nestlé, Danish Crown and Danone and Arla—had pledged to reach net-zero emissions by 2050. JBS, Cargill, Hormel, Fonterra and Smithfield had not. China-based Smithfield has since pledged to be carbon-negative by 2030 and Brazil-based JBS, the world’s largest meat processor, announced last week that it would reach net-zero by 2040. A spokeswoman for Hormel said the company was “on a path to zero” and plans to set a target for greenhouse gas reductions by 2023. These commitments, the authors say, are short on specifics or focus on carbon dioxide reductions, while the bulk of emissions from animal agriculture comes from methane, an especially potent greenhouse gas. In some cases, the companies’ commitments don’t address emissions from their whole supply chain. JBS, for example, has said in public statements that it does not assess land-use change—a major source of agricultural greenhouse gases—from third-party suppliers. These are emissions, the company said in 2019, “over which the Company has no responsibility or indirect responsibility.” Overall, animal agriculture is responsible for more than 14 percent of global greenhouse gas emissions. According to calculations by GRAIN and IATP, the five largest livestock-based producers—JBS, Tyson, Cargill, Dairy Farmers of America (DFA) and Fonterra—emitted more greenhouse gases than ExxonMobil. The NYU researchers said they’re not aware of more recent and accessible company-level data, although a 2020 report from IATP found that emissions from individual dairy companies climbed in the years since the GRAIN assessment. Recent reports, including from the Intergovernmental Panel on Climate Change, have found that cutting emissions from agriculture is critical for controlling runaway climate change. But the new research found that only seven of the 16 countries where the largest livestock producers are based mention animal agriculture in their plans to meet the targets of the Paris climate agreement. While the Paris agreement focuses on individual country’s emissions—and their potential to reduce them—the authors of the new report looked at how these companies’ future emissions compared to the emissions reductions pledges of their home countries. They determined that emissions produced by Switzerland-based Nestlé, the world’s largest food company, and New Zealand-based dairy giant, Fonterra, were so high that they would eclipse their respective home country’s emissions pledges, in effect consuming the entirety of those countries’ emissions budgets. Denmark-based Arla, the largest producer of dairy products in Scandinavia, will account for 60 percent of Denmark’s total emissions. “Those meat and dairy emissions would actually completely wipe out the emissions (those countries) say they’re going to be emitting according to their Paris agreement pledges,” said Jennifer Jacquet, an associate professor in NYU’s Department of Environmental Studies and one of the authors. In taking this approach, the authors say, they’re assigning responsibility for greenhouse gas emissions to countries on a corporate basis. “The Paris agreement suggests that Brazil is responsible for what happens in Brazil. What we said was: What if Brazil was responsible for JBS or China for Smithfield?” Jacquet said. The authors said they were following the pattern of seminal studies on the fossil fuel industry, which calculated historic emissions from individual companies and then assigned responsibility to those companies. “Essentially what we’re trying to do is build out the climate responsibility of meat and dairy producers,” Jacquet said. A spokeswoman for Fonterra said its carbon footprint was “46% lower than other major milk producers” and that the company was “actively working on tools and technologies to reduce emissions and help New Zealand reach its climate change commitments.” Filling a Research Gap The next goal of the study, Jacquet said, was to examine how these companies and their lobbying groups have fought climate regulation in Congress and before the Environmental Protection Agency, and to analyze how they’ve shaped a narrative around animal agriculture’s role in climate change. The authors calculated that U.S. agribusiness, which includes meat and dairy companies and also other agricultural companies, spent $750 million on national political candidates from 2000 to 2020. The U.S. energy sector, by comparison, spent $1 billion. The same agribusinesses spent $2.5 billion on lobbying from 2000 and 2019, compared to $6.2 billion by energy and natural resource companies. The authors said these companies also spent their lobbying money on issues beyond climate change, including the Farm Bill and farm subsidies. But, they wrote, “it is often difficult to disentangle the two as policy decisions on crop incentives, land-use, and animal production methods have large implications for the extent and intensity of the animal agriculture sector’s emissions.” The report also looked at the contributions of individual companies. Exxon spent roughly $17 million on political campaigns and more than $240 million on lobbying during the 20 years studied. In the same time frame, Tyson gave $3.2 million to political campaigns. But relative to each company’s revenue, Tyson spent double what Exxon spent on political campaigns and 33 percent more on lobbying. Industry lobby groups—the National Cattlemen’s Beef Association, the National Pork Producers Council, the North American Meat Institute, the National Chicken Council, the International Dairy Foods Association and the American Farm Bureau Federation, along with its state members—spent nearly $200 million, much of it lobbying against climate and environmental regulations, from 2000 to 2019, the authors found. A spokesperson for the National Pork Producers Council said the organization voted against a cap-and-trade bill specifically because it “would have converted massive amounts of cropland to forest” at a time when pork producers were already struggling to gain access to feed. The National Cattlemen’s Beef Association and the North American Meat Institute (NAMI), the new study said, published or funded research downplaying the emissions from livestock production, often pointing to the low percentage relative to overall U.S. emissions. Sarah Little, a spokeswoman for NAMI, said the report referenced outdated documents. “NAMI members are at the forefront of research and innovation to strengthen meat’s contributions and ambitious commitments to healthy diets and protecting our environment. The U.S. meat sector has dramatically reduced its impact on the environment in recent decades, including by reducing greenhouse gas (GHG) emissions…. This study was already outdated the day it was researched.” The nine U.S.-based companies covered in the report emitted 6 percent of overall U.S. emissions, the study found, but emitted about 350 million metric tons of carbon dioxide. That’s on the same scale as Brazil, which has the highest carbon footprint from animal agriculture and where the top four livestock companies emitted about 380 million metric tons of the greenhouse gas annually. But that amounts to about 28 percent of that country’s emissions. “The US industry really leans on Brazil’s terrible carbon footprint to compare to its own,” Jacquet said, but domestic agriculture is “high in terms of absolute emissions.” The report also notes that the U.S. companies’ emissions totals presented in the study don’t include those connected to production outside of the U.S. The authors pointed out in an interview that there’s been ample academic research into the fossil fuel industry’s attempts to influence public discourse, but that a similar body of research into the agriculture industry’s efforts has not yet emerged. That could largely be attributed, they said, to the fact that very little agricultural research is done outside of industry-influenced universities or by independent researchers. “It’s not surprising that they’re this active in shaping climate discourse,” Lazarus said, referring to the livestock companies. “What we’re trying to do is show the extent to which that has largely been ignored.”

### AT: PC Fails

#### Biden’s PC is working – his personal involvement passing infrastructure proves – that’s Barron-Lopez – AND…

Brodey 11-6 (Sam Brodey, Congressional Reporter at Daily Beast, and Scott Bixby, White House Reporter at Daily Beast, “Democrats Hand Joe Biden His Long-Awaited Infrastructure Win,” The Daily Beast, 11-5-2021, updated 11-6-2021, https://www.thedailybeast.com/democrats-hand-joe-biden-his-long-awaited-infrastructure-win)

After a torturous series of never-ending Infrastructure Weeks, President Joe Biden and congressional Democrats took the largest step yet toward ending the political Groundhog Day.

On Friday night, House Democrats passed a $1.2 trillion bipartisan infrastructure bill, 228-206, with 215 Democrats and 13 Republicans voting for the bill, and six Democrats and 200 Republicans voting no.

Since the legislation has already passed the Senate, the so-called Infrastructure Investment and Jobs Act now heads to Biden’s desk for his signature, allowing the president to claim a major win as his approval ratings sag.

That victory only arrived after Biden and Democratic leaders strong-armed progressive lawmakers enough to get them to relent on what had previously been the party’s official position: that the infrastructure bill travel alongside a $1.75 trillion social spending bill titled the Build Back Better Act.

Progressives had successfully kept the two bills together for months, fearing that moderates wouldn’t vote for the latter without holding the former as leverage.

But with pressure growing from Biden and Speaker Nancy Pelosi (D-CA) to pass the infrastructure bill, progressives had little choice on Friday but to take a legislative leap of faith.

While Biden and moderates got their win, liberals left the Capitol with a successful procedural vote to advance Build Back Better to the House floor—and with a written promise from moderates to vote for the legislation if it gets a positive fiscal analysis from Congress’ independent budget watchdog.

For progressives, the trade was not ideal. But lawmakers acknowledged it was about all they had.

“It erases a lot of the doubt,” Rep. Dan Kildee (D-MI), a member of Democratic leadership, told The Daily Beast. He admitted there was always doubt with these arrangements. "But I feel fairly confident," he said.

After a day that former Congressional Progressive Caucus chairman Mark Pocan (D-WI) dubbed “a clusterfuck,” the vast majority of the CPC decided the commitments from a few moderates to vote for the Build Back Better Act—as long as the Congressional Budget Office came back with a score in line with the White House’s—was enough.

After hours of suspense, at 11:25 p.m. Friday night, the bill passed the House, with Republicans providing the last crucial votes to get the legislation over the finish line.

Clearing the House is not the Build Back Better Act’s main issue, however. That claim to fame belongs to Sen. Joe Manchin (D-WV).

The centrist Democrat's opposition to key planks of the Build Back Better Act has already forced Democrats to cut the size of the bill in half. And he is still not committed to passing the legislation. He said this week it would take some time for him to consider it, but his tone during a Monday press conference seemed to solidify in the minds of progressives that Manchin may never get to yes.

On top of a tenuous path to becoming law, there are immigration provisions in the social spending bill—crucial for some House Democrats—that are likely to get stripped out because they don't conform to the Senate’s special rules for a bill that passes with just 51 votes in the 100-member chamber.

So, for those Democrats who support getting some kind of legislation enacted to fulfill the party’s promises on climate, health care, and the economy, their ability to keep the infrastructure bill tied to the Build Back Better Act has been critical for passing the entirety of Biden’s agenda. Now, they must hope House moderates keep their word—and trust that Biden can somehow get Manchin to embrace a package he has called a “recipe for economic disaster.”

It’s a gamble progressives very reluctantly took. And it’s one that could easily backfire. There’s no guarantee the Senate will pass the social welfare bill, which would include an expansion of universal preschool, investments in affordable housing, an expansion of Medicaid and Medicare benefits, and provisions to lower prescription drug prices for seniors, as well as tax credits for parents, low-income workers, and clean energy.

But faced with the prospect of continued Democratic inaction—and progressives catching the blame for blocking a bipartisan infrastructure bill—Progressive Caucus Chairwoman Pramila Jayapal (D-WA) moved off her earlier demand that the two bills pass both chambers to a new demand: both bills pass the House.

That would allow the infrastructure bill to become law while the president and other Democratic leaders try to win over Manchin on the Build Back Better Act. And that shift prompted new optimism that Democrats could close compromises to please their ideologically diverse and paper-thin majorities.

The problem with this plan, to pass both the bills in the House, was that a half-dozen moderates insisted on seeing a CBO score for the Build Back Better Act. That led Pelosi to develop a new plan, demanding even more concessions from progressives. The speaker wanted to pass the infrastructure bill, and then instead of passing the social spending bill, just set up debate for it.

Initially, the adapted plan was just too much for Jayapal and other progressives. They swore they would vote down the infrastructure bill if the Build Back Better Act wouldn’t pass the House too.

Nevertheless, Pelosi pressed ahead with a vote. She surprised Democrats by announcing votes on the infrastructure bill and the procedural vehicle for the Build Back Better Act for Friday night, and the Progressive Caucus had a marathon session to mull their response.

Members were under immense pressure; Jayapal, who had been open and talkative with the press throughout the process, left at one point without saying a word to journalists. CNN later reported that she was taking a call from Biden, and whereas Biden didn't explicitly ask for Democrats to pass the infrastructure bill last week—when a vote fell apart—he repeatedly pressured progressives to relent this time.

Progressives fumed that the handful of moderates who withheld their support for the Build Back Better Act were not subject to similar pressure. Aides vented publicly and privately about the narrative that progressives are the problem children of the party, when moderates hardly ever face the same criticism. And progressives can credibly claim they are trying to ensure that both planks of Biden’s agenda become law, while moderates leave ample room for doubt over whether they support anything beyond the infrastructure bill.

Still, progressives reluctantly coalesced around a plan to accept the word of a moderate faction that they have openly distrusted—and which has openly distrusted them.

Biden, who cancelled a planned trip to his Delaware vacation home at the last minute Friday, instead spent the evening in the residence alongside his legislative affairs team, “making calls and staying in close touch with leadership and members,” according to a White House official. Vice President Kamala Harris also joined in making calls.

“I am urging all members to vote for both the rule for consideration of the Build Back Better Act and final passage of the Bipartisan Infrastructure bill tonight,” Biden said in a statement released as he joined those calls. “I am confident that during the week of November 15, the House will pass the Build Back Better Act.”

The president, whose frequent calls for congressional Democrats to pass both measures in one go had become increasingly desperate, urged the Congressional Progressive Caucus earlier on Friday to vote on the BIF immediately, according to a White House official, with no mention of the massive social spending measure.

“The president is speaking with House leadership, progressives, and moderates in an effort to come to a solution,” the official said, “and he has been urging a vote tonight.”

Earlier on Friday, principal deputy White House press secretary Karine Jean-Pierre told reporters that the president had been “in close touch” with House members as he advocated for a “yes” vote on a bill that the caucus already supports.

“I can’t speak for the mechanism” on voting Friday, Jean-Pierre said when asked about timing, but “if it’s today, that’s wonderful, that’s great.”

Jean-Pierre was straightforward about the potential electoral effect that the months-long delay in passing the spending packages had on Democrats in elections this week, telling reporters that the loss of the Virginia governor’s mansion was evidence that “the American people felt we hadn’t moved quickly enough.”

“We just have to act—we cannot not deliver for the American public,” Jean-Pierre said, adding that the shortened patience of the American public had become clear to the administration. “The time is now to get this down—that’s how his assessment is.”

Ultimately, Biden got what he wanted. And as the House finished the infrastructure vote, Democrats cheered at a legislative accomplishment that has eluded multiple presidents.

#### Manchin and Sinema are NOT immune – prefer empirics

Sirota 21 (David Sirota, award-winning journalist at The Guardian, editor and founder of The Daily Poster, editor for Jacobin, former speechwriter for the 2020 Sanders presidential campaign and former aide to then-Congressman Bernie Sanders in the 1990s before launching a career as an investigative journalist, “Joe Biden says his hands are tied on a $15 minimum wage. That's not true,” The Guardian, 3-1-2021, <https://www.theguardian.com/commentisfree/2021/mar/01/joe-biden-minimum-wage-democrats/>)

When a Republican is president, Democratic politicians, pundits and activists will tell you that the presidency is an all-powerful office that can do anything it wants. When a Democrat is president, these same politicians, pundits and activists will tell you that the presidency has no power to do anything. In fact, they will tell you a Democratic president cannot even use the bully pulpit and other forms of pressure to try to shift the votes of senators in his own party.

A tale from history proves this latter myth is complete garbage – and that tale is newly relevant in today’s supercharged debate over a $15 minimum wage.

In that debate so far, we have seen Democratic senators prepare to surrender the $15 minimum wage their party promised by insisting they are powerless in the face of a non-binding advisory opinion of a parliamentarian they can ignore or fire.

That explanation is patently ridiculous and factually false, so Democratic apologists are starting to further justify the surrender by suggesting that even if the party kept a $15 minimum wage in the Covid relief bill, conservative Democrats such as Joe Manchin and Kyrsten Sinema would block it anyway.

The White House itself is now falling back on the idea that it doesn’t have the votes to do much of anything, insinuating that Joe Biden – who occupies the world’s most powerful office – somehow has no power to try to change the legislative dynamic. And this spin is being predictably amplified across social media.

To be sure, there is no guarantee that Manchin or Sinema could be moved. Maybe they couldn’t, but maybe they could, considering they have both previously supported bills to increase the minimum wage. And we know they may be sensitive to pressure. After all, Manchin recently freaked out and whined that “no one called me” when Vice-President Kamala Harris dared to do one straightforward interview with a West Virginia television station.

Whether such pressure ultimately works, the point is indisputable: it is laughable and preposterous to argue that a newly elected president has zero power to even try to shift the dynamic.

And yet, whether you call this all deliberate deception or learned helplessness, this fantastical myth of the Powerless President will inevitably be used to shield Biden from criticism for abandoning his pledge to fight for a $15 minimum wage.

The apologism is particularly absurd because unlike his predecessor Barack Obama, who was a relative newcomer to politics, Biden’s major selling point was that he knows “how to make government work”. The guy explicitly pitched himself as the best Democratic presidential candidate by suggesting that in an era of gridlock, he knows how to make the Democratic agenda a reality and Get Things Done™, like master of the Senate Lyndon Baines Johnson.

That’s where LBJ himself comes in to destroy the narrative that Democratic presidents in general – and Biden specifically – are inherently helpless.

#### The whole Biden has no PC, he’s a lame duck, nothing’s been happening for months narrative is just a hollow journalistic trope – not responsive to our uniqueness and internal link warrants – PC can swing Manchin and Sinema now – and when it does, their same authors will switch back to the dealmaker trope

Robinson 21 — Eugene Robinson, The Washington Post, reporter; (October 11th 2021; “Opinion: Take the Democrats-are-doomed narrative with a grain of salt”; *The Washington Post*; <https://www.washingtonpost.com/opinions/2021/10/11/take-democrats-are-doomed-narrative-with-grain-salt/>; //LFS—JCM)

Like wildebeests crossing the Serengeti, journalists travel in a herd. We follow not the life-giving seasonal rains but a safe, comfortable, groupthink story arc — call it The Narrative — whose current chapter is titled “Democrats are doomed.” Readers can’t help but be aware of what The Narrative is saying, or shouting, right now: President Biden’s approval numbers are down. The slim Democratic majorities in the House and Senate are in disarray — and surely will be erased in next year’s midterm elections. Everything hinges on whether an ambitious agenda involving trillions of dollars in social and infrastructure spending is enacted within the next few weeks.

There’s always some truth in The Narrative but rarely an abundance of perspective. Biden has served less than one-fifth of his term in office. House Speaker Nancy Pelosi (D-Calif.) and Senate Majority Leader Charles E. Schumer (D-N.Y.) will be running their chambers and setting the nation’s legislative agenda until January 2023 — at least. And big, transformative legislation does sometimes get signed into law during an election year, with one example being the Affordable Care Act in 2010. Of course, Obamacare did produce the tea party backlash and huge midterm gains for Republicans. But here’s where The Narrative gets confusing: Is it supposed to be worse for Democrats if they actually accomplish their goals, and thereby risk energizing the opposition? Or if they get nothing done and look like failures?

The context that’s missing is that the Democratic Party, for better or worse, has to represent the entirety of the sane political spectrum, from Sens. Joe Manchin III (W.Va.) and [Kyrsten Sinema](https://www.washingtonpost.com/politics/sinema-reconciliation-manchin/2021/09/15/8c583f96-162d-11ec-9589-31ac3173c2e5_story.html?itid=lk_inline_manual_10) (Ariz.) on the right to Sen. Bernie Sanders (I-Vt.) and the Squad on the left. That’s because the GOP has left the building. The Republican Party once at least pretended to believe in conservative principles such as fiscal restraint, muscular national defense and personal responsibility. It now stands for only two things: reclaiming power and kowtowing to former president Donald Trump. I can’t recall another time when one of our political parties has so lost its way — and its mind — leaving the other to do all the serious work of governing. And one of The Narrative’s weaknesses is an inability to deal with novel situations — as though the wildebeests, expecting to be galloping across wide-open savanna, somehow find themselves in a dense rainforest.

Senate Minority Leader Mitch McConnell (R-Ky.) faced such white-hot anger from his caucus for simply [allowing Democrats to raise the debt ceiling](https://www.washingtonpost.com/us-policy/2021/10/07/senate-deal-debt-ceiling/?itid=lk_inline_manual_16) so the treasury could pay its obligations for the next two months — a move necessary to avert a global financial meltdown — that he was forced to swear he would never, ever do so again. This is simply not normal or rational. In terms of taking care of the government’s most basic and necessary functions, Democrats, for better or worse, are on their own.

So when The Narrative warns that Biden urgently needs to get the progressives and the moderates in his party to set aside their differences, I take a somewhat different view. What I see is a pretty normal exercise in legislative give-and-take, except that it’s all happening within the Democratic Party — while Republicans hoot, holler and obstruct from the peanut gallery. When it comes to Congress, things never go as quickly as they might, and there always comes at least one moment when it appears that all is lost. Sometimes, all is indeed lost. Sometimes a massive and complicated legislative framework collapses, and everyone has to start all over again. The Narrative seems to have internalized the aphorism that the late Sen. John McCain (R-Ariz.) used to attribute, perhaps wrongly, to Chairman Mao: “It’s always darkest before it goes totally black.”

But failure is far from inevitable, as I see it, and the window for success is certainly not measured in mere days. Thus far, on votes that really matter, Democrats have shown remarkable unity. Bridging the [gap on overall spending](https://www.washingtonpost.com/politics/biden-agenda-sanders-manchin-senate-democrats/2021/10/06/96fdee98-26e3-11ec-a6ad-9ee7deda7f34_story.html?itid=lk_inline_manual_21) between what Manchin wants and what Sanders wants is mostly a matter of the kind of mathematical legerdemain that both men could do in their sleep. Getting Manchin on board with some of the climate change initiatives in the package will be harder, I fear, and may require painful compromise. As Republicans ever more slavishly bend the knee to Trump, however, it should become clearer that Democrats must act alone. There will come a time when Manchin and Sinema have to decide whether the Senate filibuster is more important than protecting the right to vote in free and fair elections. I hope they choose wisely. The thing about The Narrative is that is requires periodic plot twists. When the “Biden is toast” story line changes to “Biden is back,” take that, too, with a grain of salt. The Serengeti is wide, and there are many miles to go.

#### There is no force in Congress stronger than Biden’s PC – can swing Manchin and Sinema

Everett et al 21 (John Burgess Everett, co-congressional bureau chief for POLITICO, specializing in the Senate, BA journalism, University of Maryland College Park; and Laura Barrón-López, White House Correspondent for POLITICO, formerly covered Democrats for the Washington Examiner, Congress for HuffPost, and energy and environment policy for The Hill, BA political science, California State University, Fullerton; “Dems call in big gun as they face huge Hill tests,” POLITICO, 9-16-2021, https://www.politico.com/news/2021/09/16/biden-influence-capitol-democrats-511952)

The next few months will push President Joe Biden to wield every drop of his influence over Congress.

Democrats are plunging into messy internal debates over social programs from child care to drug pricing as they try to beat back GOP resistance on voting rights while steering the United States away from economic catastrophe. And in order to avert a government shutdown, avoid a debt default and fight ballot access restrictions passed in some GOP states, Democratic lawmakers are urging Biden to get more directly involved.

Senate Majority Whip Dick Durbin said that Biden, “more than anyone,” maintains sway over his caucus’s 50 members: “There is no comparable political force to a president, and specifically Joe Biden at this moment.”

Biden appears to be answering the call. The president is getting increasingly involved in Congress’ chaotic fall session as he battles sagging approval ratings, heightened concerns around the pandemic and some internal criticism over his withdrawal from Afghanistan.

Rebounding as the midterms draw nearer will depend on whether his big social spending ambitions are realized and if his party can dodge a government shutdown and credit default. But even if he has success on those fronts, he still needs to maintain momentum on Democrats’ elections legislation, which Republicans look certain to torpedo.

“I have full faith and confidence in Joe Biden in all of this,” said House Majority Whip Jim Clyburn, who's pressed Biden to endorse a filibuster carve out for voting rights legislation. “He is working this … and that’s how it should be.”

Biden met with two key Democratic holdouts on his domestic spending agenda on Wednesday, part of a sustained push to keep Sens. Joe Manchin (D-W.Va.) and Kyrsten Sinema (D-Ariz.) on board with his legislative program. Biden’s met with Sinema four times this year, in addition to telephone calls made between the two, and has spoken to Manchin a similar number of times.

“Now is the time” for Biden to jump full-force into the reconciliation conversation, said Sen. Tim Kaine (D-Va.). And the White House made clear that Biden is diving into the series of tricky issues.

Andrew Bates, a spokesperson for Biden, said that Biden and his administration "are in frequent touch with Congress about each key priority: protecting the sacred right to vote, ensuring our economy delivers for the middle class and not just those at the top, and preventing needless damage to the recovery from the second-worst economic downturn in American history.”

To help corral all 50 Senate Democrats for the social spending bill, the president and his party need to create an “echo chamber” around its substance, said Celinda Lake, a pollster on Biden’s campaign. But that won't be easy. Manchin has told colleagues he’s worried about whether the bill’s safety net, climate action and tax reforms will be popular in his state, according to one Senate Democrat. He's also said he won't support a measure at the current spending level: $3.5 trillion.

If Biden can hammer home the popular aspects of the spending plan, it may help assuage Manchin and improve his whip count in Congress. Underscoring the degree to which he's become the face of the multi-trillion dollar reconciliation bill, a Democratic aide said the party is increasingly seeking to frame it as Biden’s agenda, not that of Sen. Bernie Sanders (I-Vt.) or any single Democrat.

“People think they like the reconciliation package, but they really don't know what's in it,” said Lake, who added that her polling shows popularity for the measure, particularly among women and seniors.

The coming months will also challenge Biden’s relationship with Republicans, who are threatening to block a debt limit hike after many of them supported a suspension or increase three times under former President Donald Trump. Biden campaigned as a Democrat who could work with Republicans, and he succeeded this summer by rounding up 19 Senate GOP votes for a $550 billion infrastructure bill.

Yet he’s running into a brick wall in convincing Senate Minority Leader Mitch McConnell to provide at least 10 GOP votes to lift the nation's borrowing limit. Republicans say Biden’s dip in the polls isn’t driving their strategy on the debt ceiling. But it’s not helping either.

“I don’t think anything in the last month has increased the likelihood that he can now create an atmosphere of: Let’s work together,” said Sen. Roy Blunt (R-Mo.), who voted for the infrastructure bill and debt ceiling increases under Trump.

The White House is, so far, sticking by its plan to try and call McConnell’s bluff. Aides in the West Wing consider attaching a debt ceiling suspension or increase to a government funding measure the best way to pressure Republicans on the routine step required by law. Should that approach fail, they may be forced to separate the two fiscal measures to avert a shutdown.

On the debt limit, congressional Democrats are in lockstep with the administration's strategy. But they're looking for Biden to exhibit more of his arm-twisting and back-slapping skills on their social spending plan and their bid to shore up voting rights protections.

Biden “knows better than anyone the power of the United States [presidency] in persuading and sometimes cajoling the key members of Congress, when push comes to shove,” said Sen. Richard Blumenthal (D-Conn.).

#### Disad outweighs – prefer scope and reversibility – failure to pass BBB dooms foreign follow-through on commitments post-Glasgow conference – scorches the planet – that’s Chon, turns case

#### Prefer scientific consensus – now’s the last chance before countless catastrophic impacts become irreversible – encompasses all other impacts, making it try or die to avoid the disad

Åberg et al 10-5 (Anna Åberg, research analyst in the Environment and Society Programme of Chatham House, formerly served as desk officer at the Swedish Ministry for Foreign Affairs, MSc Development Studies, London School of Economics and Political Science, BSc Business and Economics, and Politics and Economics, Lund University; Antony Froggatt, deputy director and senior research fellow in the Environment and Society Programme of Chatham House; and Rebecca Peters, Queen Elizabeth II Academy Fellow in the Environment and Society Programme of Chatham House, doctoral candidate at the University of Oxford with the UK Foreign, Commonwealth and Development Office REACH Water Security programme, MSc Development Economics, MSc Water Science and Policy, Marshall Scholar; “Raising climate ambition at COP26,” Chatham House (the Royal Institute of International Affairs, London) Research Paper, October 2021, https://www.chathamhouse.org/sites/default/files/2021-10/2021-10-05-raising-climate-ambition-at-cop26-aberg-et-al-pdf.pdf)

01

Introduction

COP26 is the most important climate summit since COP21 in Paris in 2015. Over the past year, the global politics of climate change have shifted, with the election of President Joe Biden and the announcement of China’s carbon neutrality target.

Addressing climate change is the defining challenge of our time. Around the globe – and across the suite of UN organizations – there is widespread recognition of the urgency to reduce greenhouse gas (GHG) emissions and to prepare for a world that is, and will continue to be, severely impacted by climate change.

The foundational treaty of the international climate change regime – the United Nations Framework Convention on Climate Change (UNFCCC) – was adopted at the Rio Earth Summit in 1992.1 Its signatories agreed to ‘achieve… stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system’.2 The states that have ratified the UNFCCC meet annually at the ‘Conference of the Parties’ (COP) to assess and review the implementation of the convention.3 The COP has negotiated two separate treaties since the formation of the UNFCCC: the Kyoto Protocol in 1997, and the Paris Agreement in 2015.4

The Paris Agreement was adopted by 196 parties at COP21 in 2015 and entered into force less than a year later.5 The goals of the treaty are to keep the rise in the global average temperature to ‘well below 2°C above pre-industrial levels’, ideally 1.5°C; enhance the ability to adapt to climate change and build resilience; and make ‘finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development’.6 The agreement adopts a ‘bottom-up’ and non-standardized approach, where parties themselves set their national emission reduction targets and communicate these to the UNFCCC in the form of nationally determined contributions (NDCs).7

As things stand, the targets8 that were submitted in the run-up to COP21 are not sufficient, even if fully implemented, to limit global warming to 2°C, much less 1.5°C.9 The Paris Agreement was designed, however, to generate increased ambition over time via two components: a collective ‘global stocktake’ during which progress towards Paris Agreement goals is assessed based on country reporting,10 and the ‘ratchet mechanism’, which encourages countries to communicate new or updated NDCs every five years, with the expectation that ambition will increase over time.11 The results of the stocktake are scheduled to be released two years before NDC revisions are made.12 This sequencing is designed to allow national plans to account for the global context of the climate assessment. The first global stocktake is to be conducted between 2021 and 2023, and will be repeated every five years thereafter.13 The results of the first stocktake are due to be published around COP28.

We really are out of time. We must act now to prevent further irreversible damage. COP26 this November must mark that turning point.14 UN Secretary-General António Guterres, 16 September 2021

The 26th Session of the Conference of the Parties (COP26) to the UNFCCC is to be hosted by the UK, in partnership with Italy. After a year-long delay, the conference is now scheduled to take place in Glasgow, Scotland, between 31 October and 12 November 2021.15 Organizing an in-person event during a pandemic presents a substantial challenge. The UK government is providing vaccines to accredited delegations, but doses only started to be delivered at the beginning of September 2021 and restrictions, such as quarantine requirements,16 pose further obstacles to participation.17 An alliance of 1,500 civil society organizations are among those calling for a second postponement of the COP, citing concerns about a lack of plans to enable safe and inclusive participation of delegates from, not least, the Global South.18 The UK government is, however, adamant that it will proceed with the conference as planned.19

The pandemic has changed understandings of global risks, the interconnected nature of economies and the role of governments in preparing for and responding to existential threats. This may provide impetus for accelerated climate action. The postponement of COP26 itself has been of considerable significance. Over the past year, the global politics of climate change have shifted, with the election of President Joe Biden and the announcement of China’s climate neutrality target being particularly important. Moreover, the economic recovery packages that are being rolled out to counter the economic consequences of the pandemic present an opportunity to accelerate the green transition.20 To date, however, the members of the G20 have prioritized investments in fossil fuels above those in clean energy,21 and only 10 per cent of the global expenditure is estimated to have been allocated to projects with a net positive effect on the environment.22

COP26 is the most important climate summit since COP21 in Paris, and it differs from earlier COPs in several ways: it is the first test of the ambition-raising ratchet mechanism and marks a shift from negotiation to implementation. An ambitious outcome at COP26 requires substantial action to be taken before the summit – and outside the remits of the UNFCCC process – as well as at the actual conference.

Human activity has already caused the global average temperature to rise by around 1.1°C above pre-industrial levels, and every additional increase in warming raises the risks for people, communities and ecosystems. To avoid the most catastrophic climate change impacts, it is essential world leaders make every effort to limit warming to 1.5°C. Working group I of the Sixth Assessment Report of the IPCC shows it is still possible to keep warming to this critical threshold, but that unprecedented action must be taken now.23 As John Kerry, special presidential envoy for climate, stated, ‘[t]his test is now as acute and as existential as any previous one’.24

COP26 has a critical role in getting the world on track for a 1.5°C pathway, and in supporting those most affected by climate change impacts. It also constitutes a key test for the credibility of the Paris Agreement and the UNFCCC process overall. But what can and should the Glasgow summit achieve more specifically? The objective of this paper is to discuss what a positive outcome at COP26 would entail, with the dual aims of encouraging increased ambition and contributing to an informed public debate. The main argument put forth is that substantial progress must be made in three main areas, namely on increasing the ambition of NDCs; enhancing support to and addressing concerns of climate-vulnerable developing countries; and advancing the Paris Rulebook to help operationalize the Paris Agreement.

COP26 is undoubtedly hugely significant and national government pledges in the run-up to Glasgow will contribute to shaping the level of future GHG emissions. However, the event is not only critical in terms of reaching an ambitious outcome on climate, it is also an important opportunity to judge the level of confidence in the international process and the UNFCCC.

02

Increasing the ambition of the NDCs

A key element of COP26 will be the level of ambition of the revised NDCs put forward by governments to the UNFCCC and the extent to which these keep the 1.5°C global warming target agreed in Paris within reach.

According to the United Nations Environment Programme (UNEP), greenhouse gases (GHGs) in 2019 totalled 52.4 gigatonnes of CO₂ equivalent (GtCO₂e)25 of which the majority was CO₂ (38 Gt), then methane (9.8 Gt), nitrous oxide (2.8 Gt) and F-gases (1.7 Gt).26 The same year, GHG emissions were approximately 59 per cent higher than in 1990 and 44 per cent higher than in 2000.The six largest emitters – together accounting for 62 per cent of the global total – were China (26.7 per cent), the US (13 per cent), the EU (8 per cent), India (7 per cent), Russia (5 per cent) and Japan (3 per cent) (see Figure 1).27

**[FIGURE 1 OMITTED]**

According to UNEP, the implementation of the first round of NDCs would result in an average global temperature increase of 3°C above pre-industrial levels by the end of the century, with further warming taking place thereafter. If these NDC’s were fully implemented, emission levels are expected to be in the range of 56 GtCO2e (with unconditional NDCs) to 53 GtCO₂e (with conditional NDCs) by 2030.28 To align with a 2°C pathway, the ambition of the second round of NDCs would need to triple relative to the original targets, leading to emissions levels of around 41 GtCO₂e in 2030. Alignment with the 1.5°C target would require a fivefold increase in ambition, leading to emission levels around 25 CO₂e in 2030 (see Figure 2).29

**[FIGURE 2 OMITTED]**

The Paris Agreement states that parties shall communicate an NDC every five years,30 and that each submission shall constitute a progression in terms of ambition.31 Parties conveyed their first round of targets prior to COP21, and were due to submit new or updated plans in 2020.32 COP26, originally scheduled for November 2020, would then take stock of the collective level of ambition of these plans vis-à-vis the temperature targets of the Paris Agreement. The postponement of the COP by one year has in practice (albeit not formally) extended the deadline for submitting NDCs to ‘ahead of COP26’.

Where do we stand?

The delay of COP26 has given countries more time to put forward NDCs and longer-term decarbonization targets. This effort gained significant traction when China pledged to achieve carbon neutrality by 2060 and peak its emissions before 2030, during the general debate of the 75th Session of the UN General Assembly (UNGA) in September 2020.33 Then, in November 2020, the UK submitted its NDC, pledging a 68 per cent reduction in emissions by 2030 (based on 1990 levels)34 and later added a 2035 target of 78 per cent.35 The EU has, moreover, put forward a 55 per cent reduction target relative to 1990 levels,36 with some countries within the bloc going even further, including Germany, which agreed on a 65 per cent reduction target.37

The election of President Biden has fundamentally changed the US’s position on climate change, leading to, among other things, the country re-joining the Paris Agreement.38 At a specially convened Leaders Summit on Climate – hosted by the US – the Biden administration presented an NDC with an emission reduction target of 50–52 per cent39 (based on 2005 levels, which is equivalent to 40–43 per cent below 1990 levels40). During the summit, countries including Canada, Japan and others pledged more ambitious NDC targets.41

While there is more pressure on governments to act on climate change, due to its increasingly devastating impacts, there are also more opportunities for carbon mitigation through available alternative technologies and systems, as well as falling renewable energy costs (see Box 2).

Table 1 details the NDC targets put forward by G20 countries prior to COP21 in Paris and the extent to which these have since been revised. The updated NDCs have been assessed by the independent body, Climate Action Tracker, which has analysed to what extent the NDCs align with the 1.5°C pathway. The analysis also looks at domestic policies and actions, which are important as they provide an indication of whether governments are following through on their promises.

**[TABLE 1 OMITTED]**

As of September 2021, 85 countries and the EU27 had submitted new or updated NDCs, covering around half of global GHG emissions. Some parties, like China and Japan, have proposed new targets but not yet submitted them formally while around 70 parties – including G20 countries like India, Saudi Arabia and Turkey – have neither proposed nor communicated a revised NDC target. Several parties have, moreover, submitted new NDCs without increasing ambition. These include Australia, Brazil, Indonesia, Mexico, New Zealand, Russia, Singapore, Switzerland and Vietnam.42 In some of these cases, adjustments in baselines mean that ambition has de facto decreased (Brazil and Mexico).43 Analysis published by Climate Action Tracker in September 2021 shows that the NDC updates only narrow the gap to 1.5°C by, at best, 15 per cent (4 GtCO₂e). This leaves a large gap of 20–23 GtCO₂e.44

Similar analysis from the UN underscores the need for further NDC enhancements.45 If all current NDCs are implemented, total GHG emissions (not including emissions associated with land use) in 2030 are projected to be 16.3 per cent higher than in 2010, and 5 per cent higher than in 2019. The emissions of the parties that have submitted new or updated NDCs are, however, expected to fall by around 12 per cent by the end of the decade, compared to 2010 levels. The UN report also highlights the importance of providing support to developing countries, as many of these have submitted NDCs that are – at least in part – conditional on the receipt of additional financial resources, capacity-building support, and technology transfer, among other things. If such support is forthcoming, global emissions could peak before 2030, with emission levels at the end of this decade being 1.4 per cent lower than in 2019. However, even the full implementation of both the unconditional and conditional elements of the NDCs would lead to an overshoot of the targets of the Paris Agreement – as alignment with 1.5°C and 2°C require cuts of 45 per cent and 25 per cent, respectively, by 2030 (relative to 2010 levels).46

A large number of countries are also making more long-term net zero emissions or carbon neutrality pledges. As of September 2021, just over 130 countries had made such commitments, but not all of them have formally presented them to the UNFCCC.47 Examples include large economies like China, Japan, Brazil, the US, South Africa, South Korea, and the EU, as well as climate-vulnerable developing countries like the Marshall Islands, Barbados, Kiribati and Bangladesh.48 Climate Action Tracker estimates that if these long-term targets – and the NDCs – are fully implemented, global warming could be limited to 2°C.49 Most of the net zero pledges are, however, formulated in vague terms that are not consistent with good practice. The long-term targets are, moreover, only credible if they are backed up by ambitious and robust 2030 NDCs,50 given that substantial cuts in emissions must occur this decade. An additional concern that has been raised when it comes to net zero pledges is that they may encourage reliance on negative emissions technologies, such as bioenergy with carbon capture and storage (BECCS), which have still to be tested at scale to assess land requirement, efficiency and economic viability.51

**[BOX 1 OMITTED]**

The challenge of closing the gap

Bridging the gap between current NDCs and targets that would keep warming to 1.5°C is a defining challenge for governments ahead of COP26. As mentioned, UNEP estimates that the ambition of 2030 targets would need to be enhanced fivefold vis-à-vis pledges made in 2015 to align with a 1.5°C pathway.53 Several large emitters – including the US and the EU – have now submitted their new or updated NDCs. According to Climate Action Tracker, the UK’s target is considered to be compatible with a 1.5°C pathway, while those of the US, EU, Japan and Canada are classified as ‘almost sufficient’.54

It is critical that all countries that have not yet submitted a new or updated NDC do so, and that these pledges are aligned with 1.5°C. It is equally important that countries that have submitted unambitious NDCs revisit their targets. The Paris Agreement states that parties may revise existing NDCs at any time, if the purpose is to enhance ambition.55 The G20 countries have a particularly important role to play. In July 2021, the Italian G20 presidency hosted the first ever G20 Climate and Energy Ministerial meeting. In the final communique the countries in the G20 stated that they ‘intend to update or communicate ambitious NDCs by COP26’.56 The importance of action from all members of the G20 is clear, as they collectively account for 80 per cent of global emissions and as UN Secretary-General António Guterres said, ‘there is no pathway to this [1.5°C] goal without the leadership of the G20’.57

With only a few weeks to go it is, however, unlikely that the 20–23 GtCO₂e gap in targets will be closed by COP26. At the UK-hosted COP26 ministerial in July, a number of ministers stressed that parties would need to respond to any gap remaining by the Glasgow conference. Some suggested that such a response could include a ‘clear political commitment’ to keep 1.5°C within reach, a recognition of the gap, and a plan to bridge it. More specific proposals of actions that could be taken, as part of the response, to keep the 1.5°C pathway alive were also discussed. Suggestions included, but were not limited to, encouraging countries whose NDCs are not consistent with 1.5°C to bring their 2030 targets in line before 2025 (when the third round of NDCs are due); calling for parties to submit concrete long-term strategies for reaching net zero; and/or sending clear signals to markets through actions like phasing out unabated coal, carbon pricing, fossil fuel subsidy reform, nature-based solutions, and decarbonizing transport.58

Achieving a positive COP26 outcome

The ultimate benchmark for a high ambition outcome at COP26 is whether the new or updated NDCs are ambitious enough to align with a 1.5°C pathway. For many communities and ecosystems, the threat of different climate impacts between 1.5°C and 2°C – not to mention 3°C, 4°C or 5°C – is existential. Each increment of warming is anticipated to drive increasingly devastating and costly impacts, including extreme heatwaves, rising sea levels, biodiversity loss, reductions in crop yields, and widespread ecosystems damage including to coral reefs and fisheries.59

Keeping the goal of 1.5°C within reach will require substantial action this decade. Long-term targets to achieve net zero emissions or carbon neutrality have the potential to be powerful drivers of decarbonization but need to be supported by ambitious NDCs as well as concrete policies and sufficient investment.

Should we reach COP26 without sufficient ambition on NDCs, parties would need to present a plan for how ambition will be raised in the early 2020s. This could include a COP decision or a political statement underscoring the need to keep warming to 1.5°C and inviting parties to revisit their NDCs earlier than the Paris timetable dictates (for instance in 2023 instead of 2025).60 To support more ambitious action, countries should look to expand international collaboration and accelerate decarbonization in key sectors. At COP26, parties can help boost the credibility of their pledges by showcasing policies, measures and sector initiatives that will accelerate decarbonization, including on the phase out of unabated coal and the increased use of electric vehicles (see Box 3).

**[BOX 2 OMITTED]**

**[FIGURE 3 OMITTED]**

In the run-up to COP26, the UK government is mobilizing its counterparts and non-state actors to drive accelerated action on phasing out the use of unabated coal,65 accelerating the deployment of electric vehicles,66 protecting and restoring nature (nature-based solutions67), and aligning financial flows with the goals of the Paris Agreement.68 The role of the private sector is crucial in the transition to net zero economies and is recognized within the framework of the UNFCCC, as they can deliver funding, innovation and technology deployment at a pace and scale beyond that of most governments (see Box 1). It is hoped that some of these initiatives will lead to plurilateral agreements at or ahead of COP26, which could enhance the credibility of mitigation pledges and help keep the 1.5°C target within reach. Being able to showcase a package consisting of ambitious NDCs, plurilateral deals, and national policies at COP26 could generate positive momentum and create a sense of inevitability around the transition to net zero societies.

**[BOX 3 OMITTED]**

03

Support to climate-vulnerable developing countries

Increased action on climate finance, adaptation, and loss and damage is critical for supporting climate-vulnerable developing countries, strengthening trust and raising ambition on mitigation.

The year 2020 was one of the warmest on record.80 As COVID-19 ravaged the world, extreme weather events continued to cause severe devastation. In Bangladesh, torrential rains submerged a quarter of the country,81 resulting in hundreds of deaths, mass displacement and damage to more than a million homes.82 Record-breaking floods in Sudan83 and Uganda84 also displaced hundreds of thousands, while super cyclone Amphan raged across South Asia.85 Extreme weather events were also a defining feature of the summer of 2021.

An unprecedented heatwave may have killed almost 500 people in British Columbia,86 as well as a billion marine animals along the Canadian coastline.87 In the Chinese province of Henan people drowned in the subway after a year’s worth of rain fell in just three days.88 Germany and Belgium also experienced death and destruction as a result of severe flooding,89 while villages in Greece burned.90

The impacts of climate change are striking even harder than many anticipated,91 and as temperatures continue to rise extreme weather events are increasing in both frequency and intensity. Limiting global warming to 1.5°C is key to avoiding the most catastrophic events, but substantial measures must also be undertaken to adapt to climate change impacts and build resilience. As the summer of 2021 shows, no country is spared. It is, however, those who have emitted the least that are most at risk,92 and in many countries that are disproportionately affected by climate change – such as the least developed countries (LDCs)93 – financial constraints impede their ability to invest in adaptation, build resilience and deal with loss and damage.94 COVID-19 has aggravated this challenge: while industrialized countries have implemented unprecedented stimulus measures to support their economies – and vaccinated large parts of their populations – many developing countries remain in the midst of a health and economic catastrophe.

Scaled up action on climate finance, adaptation and loss and damage are – in addition to increased ambition on mitigation – key priorities for climate-vulnerable nations ahead of COP26. Raised ambition and concrete delivery in these areas are critical for supporting those at the frontline of climate change, key to building trust, and could encourage some parties to raise the ambition of their NDC pledges. The implementation of many NDCs is, in addition, at least partly conditional upon receiving increased levels of finance, as well as other types of support.95

Honouring the $100 billion goal

In 2009, developed countries committed to mobilizing $100 billion per year by 2020 for climate mitigation and adaptation in developing countries.96 This pledge was subsequently formalized in the Cancun Agreements in 201097 and reaffirmed in the Paris Agreement in 2015. The resources provided were to be ‘new and additional’98 and come from a variety of public and private sources.99 The $100 billion goal is a core element of the bargain underpinning the Paris Agreement.100 While achieving the mitigation and adaptation goals of the agreement will require trillions of dollars in investment – of which most will need to come from the private sector – the delivery of the $100 billion is critical to building trust between developed and developing countries,101 and is important for raising ambition on mitigation.102

The OECD estimates that $79.6 billion was mobilized in 2019, which is the most recent year for which official figures are available.103 In 2018, the figure was $78.9 billion, and in 2017 it was $71.2 billion.104 Though the verified figures for 2020 will not be available until 2022, it is clear the target was missed.105

Developed countries have, moreover, not yet been able to show that the pledge will be honoured in 2021, nor demonstrate conclusively how it will be met in the 2022–24 period.106

The pledge by developed nations to mobilize $100 billion to developing nations by 2020 is a commitment made in the UNFCCC process more than a decade ago. It’s time to deliver. How can we expect nations to make more ambitious climate commitments for tomorrow if today’s have not yet been met?107

Patricia Espinosa, 23 July 2021

How the goal is achieved matters. Only around one-fifth of bilateral climate finance is allocated to the LDCs,108 and locally led projects receive low priority.109 There are also concerns related to overreporting and lack of additionality. Oxfam estimates, for instance, that 80 per cent of public climate finance provided over the 2017–18 period took the form of loans or other non-grant instruments, and that the actual grant equivalent only accounted for around half of the total amount of finance reported.110 Furthermore, the Center for Global Development has found that almost half of the climate finance reported between 2009 and 2019 cannot be considered ‘new and additional’.111 There is, finally, an urgent need to close the adaptation finance gap (see next section),112 and facilitate access to finance.113

It is widely recognized that honouring the $100 billion goal is a prerequisite for success at COP26.114 The hitherto failure of developed countries to provide clarity on the issue is creating mistrust between countries,115 with the director of the International Centre for Climate Change and Development (who is also an adviser to the climate-vulnerable countries) conveying that, ‘if the money is not delivered before November, then there is little point in climate-vulnerable nations showing up in Glasgow to do business with governments that break their promises’.116 The chair of the LDC Group has also made it clear that, ‘[t]here will be no COP26 deal without a finance deal’. 117

The G7 countries play a critical role in mobilizing the $100 billion,118 and there was a hope that G7 leaders would increase their bilateral commitments substantially – and provide clarity on the $100 billion119 – when they convened in Cornwall in June 2021. Some new pledges were made. Canada, for instance, committed to doubling its climate finance through to 2025 (to CAD $5.3 billion), and Germany pledged to increase its annual commitments from €4 billion to €6 billion by 2025 at the latest.120 The G7 members collectively also committed to ‘each increase and improve’ their public climate finance contributions, and announced they would develop a new international initiative – ‘Build Back Better for the World’121 – the details of which have yet to be fleshed out. However, many developing country officials – and many observers worldwide – expressed disappointment with the summit outcome, with the climate minister of Pakistan describing the G7 commitments as ‘peanuts’.122

Several announcements on climate finance were also made during the 76th Session of the UNGA in September 2021. Most importantly, President Joe Biden pledged to double US climate finance (again) from the previously committed $5.7 billion to $11.4 billion per year by 2024. Actual delivery is, however, contingent on congressional approval.123 The EU – which already contributes around $25 billion in climate finance per year – also stepped up, announcing an additional €4 billion until 2027,124 while Italian Prime Minister Mario Draghi conveyed that Italy would shortly be announcing a new climate finance commitment.125 Though the US pledge in particular has been described as a critical step forward that ‘puts the $100 billion within reach’,126 more will need to be done.127

$100 billion is a bare minimum. But the agreement has not been kept. A clear plan to fulfil this pledge is not just about the economics of climate change; it is about establishing trust in the multilateral system.128

António Guterres, 9 July 2021

#### AND, expectations of resource conflict alone makes nuclear war inevitable in the short term

Dr. Michael T. Klare 20, Five Colleges Professor of Peace and World Security Studies at Hampshire College, Ph.D. from the Graduate School of the Union Institute, BA and MA from Columbia University, Member of the Board of Director at the Arms Control Association, Defense Correspondent for The Nation, “How Rising Temperatures Increase the Likelihood of Nuclear War”, The Nation, 1/13/2020, https://www.thenation.com/article/archive/nuclear-defense-climate-change/

Climbing world temperatures and rising sea levels will diminish the supply of food and water in many resource-deprived areas, increasing the risk of widespread starvation, social unrest, and human flight. Global corn production, for example, is projected to fall by as much as 14 percent in a 2°C warmer world, according to research cited in a 2018 special report by the UN’s Intergovernmental Panel on Climate Change (IPCC). Food scarcity and crop failures risk pushing hundreds of millions of people into overcrowded cities, where the likelihood of pandemics, ethnic strife, and severe storm damage is bound to increase. All of this will impose an immense burden on human institutions. Some states may collapse or break up into a collection of warring chiefdoms—all fighting over sources of water and other vital resources.

A similar momentum is now evident in the emerging nuclear arms race, with all three major powers—China, Russia, and the United States—rushing to deploy a host of new munitions. This dangerous process commenced a decade ago, when Russian and Chinese leaders sought improvements to their nuclear arsenals and President Barack Obama, in order to secure Senate approval of the New Strategic Arms Reduction Treaty of 2010, agreed to initial funding for the modernization of all three legs of America’s strategic triad, which encompasses submarines, intercontinental ballistic missiles, and bombers. (New START, which mandated significant reductions in US and Russian arsenals, will expire in February 2021 unless renewed by the two countries.) Although Obama initiated the modernization of the nuclear triad, the Trump administration has sought funds to proceed with their full-scale production, at an estimated initial installment of $500 billion over 10 years.

Even during the initial modernization program of the Obama era, Russian and Chinese leaders were sufficiently alarmed to hasten their own nuclear acquisitions. Both countries were already in the process of modernizing their stockpiles—Russia to replace Cold War–era systems that had become unreliable, China to provide its relatively small arsenal with enhanced capabilities. Trump’s decision to acquire a whole new suite of ICBMs, nuclear-armed submarines, and bombers has added momentum to these efforts. And with all three major powers upgrading their arsenals, the other nuclear-weapon states—led by India, Pakistan, and North Korea—have been expanding their stockpiles as well. Moreover, with Trump’s recent decision to abandon the Intermediate-Range Nuclear Forces (INF) Treaty, all major powers are developing missile delivery systems for a regional nuclear war such as might erupt in Europe, South Asia, or the western Pacific.

### Case

#### The ag industry is facing an inevitably credit collapse – zeros the aff but the cp can solve

Willingham 21 –, the ag industry needs credit… credit collapse = ag collapse

Any of these big en threats we can solve with tech advances that the plan is not key to bring about- we are going to make tech to solve the impacts if they are that impactful- don’t need the plan we can develop big tech outside of ag- its inevitable

#### Big tech’s an alt cause – digital authoritarianism and control of information dominates our lives more than ag

Crawford 21 – Tech to solve environmental tech can be developed….

### 2nc – credit collapse

#### AG industry will collapse even if big farms are broken up & stop polluting. Warming induced climate disasters like tornados or land degradation cause all of farm creditor’s collaterals to depreciate rapidly. Community banks, private lenders, and the Farm Credit System will all experience a credit crunch – that’s Willingham. Turns the aff b/c small farmers can’t get liquidity to keep running so only the conglomerates can survive.

### 2nc – can’t solve bioD

#### No way the aff can solve bioD collapse – the Ritchie & roser evidence indicates that each species is facing at least 2 or three extinction level threats. Even if they somehow remove all agricultural threats from keystone species it won’t resolve issues like overfishing, logging, and land expansion.

### 2nc – no spillover

#### Their international follow-on argument is laughable at best. We’ve rehighlighted the portions of the Sanderson evidence that come close to making this argument, but all it says is that the US dumped cheap grain into developing countries which incentivized them to industrialize. We’ve stopped since then, which proves that the US is no longer driving big farms in other countries. At best their evidence says that grain production get’s modeled, not US ag antitrust policy.

### 2nc – phosporus

#### Phosphorus reserves are constantly growing – no chance of shortages

Lomborg 1 (Bjorn, Head – Copenhagen Consensus Center and Adjunct Professor – Copenhagen Business School, The Skeptical Environmentalist, p. 144)

Phosphorus is a constituent of DNA and consequently indispensible for all forms of life. Often, the amount of phosphorus available sets the limit of biological activity in natural systems. Phosphorus makes up about 1 percent of our raw material expenditure. The phosphorus reserves stand at about 90 years at current consumption, but because phosphate rocks look like ordinary shales and limestones, even to exports, we can anticipate discoveries of **new, large deposits** in the future. Recently, the US Geological Survey announced the finding of phosphatic crusts and nodules in the offshore continental shelf of Florida containing very large deposits, **single-handedly doubling** the phosphorus reserves to about 180 years. **Consequently, it is not expected that the availability of phosphorus will become a limitation to food production.**

### 2nc – bioD resilient

#### biodiversity’s resilient- that’s the biello 14 evidence.

#### the net diversity in ecosystems over time is constant because as one species is lost, another one fills in for it. ecosystems aren’t being destroyed by species extinctions now, they’re just being changed.

#### prefer our evidence- 2 reasons:

#### qualifications- it cites peer reviewed studies published in the journal Science

#### data- it makes conclusions based on over 100 surveys that followed more than 35,000 species over a long period of time

#### No impact – best data and empirics.

Kareiva 12 Peter, Chief Scientist and Vice President, The Nature Conservancy, Winter, “Conservation in the Anthropocene,” http://thebreakthrough.org/index.php/journal/past-issues/issue-2/conservation-in-the-anthropocene/

2. As conservation became a global enterprise in the 1970s and 1980s, the movement's justification for saving nature shifted from spiritual and aesthetic values to focus on biodiversity. Nature was described as primeval, fragile, and at risk of collapse from too much human use and abuse. And indeed, there are consequences when humans convert landscapes for mining, logging, intensive agriculture, and urban development and when key species or ecosystems are lost. But ecologists and conservationists have grossly overstated the fragility of nature, frequently arguing that once an ecosystem is altered, it is gone forever. Some ecologists suggest that if a single species is lost, a whole ecosystem will be in danger of collapse, and that if too much biodiversity is lost, spaceship Earth will start to come apart. Everything, from the expansion of agriculture to rainforest destruction to changing waterways, has been painted as a threat to the delicate inner-workings of our planetary ecosystem. The fragility trope dates back, at least, to Rachel Carson, who wrote plaintively in Silent Spring of the delicate web of life and warned that perturbing the intricate balance of nature could have disastrous consequences.22 Al Gore made a similar argument in his 1992 book, Earth in the Balance.23 And the 2005 Millennium Ecosystem Assessment warned darkly that, while the expansion of agriculture and other forms of development have been overwhelmingly positive for the world's poor, ecosystem degradation was simultaneously putting systems in jeopardy of collapse.24 The trouble for conservation is that the data simply do not support the idea of a fragile nature at risk of collapse. Ecologists now know that the disappearance of one species does not necessarily lead to the extinction of any others, much less all others in the same ecosystem. In many circumstances, the demise of formerly abundant species can be inconsequential to ecosystem function. The American chestnut, once a dominant tree in eastern North America, has been extinguished by a foreign disease, yet the forest ecosystem is surprisingly unaffected. The passenger pigeon, once so abundant that its flocks darkened the sky, went extinct, along with countless other species from the Steller's sea cow to the dodo, with no catastrophic or even measurable effects. These stories of resilience are not isolated examples -- a thorough review of the scientific literature identified 240 studies of ecosystems following major disturbances such as deforestation, mining, oil spills, and other types of pollution. The abundance of plant and animal species as well as other measures of ecosystem function recovered, at least partially, in 173 (72 percent) of these studies.25 While global forest cover is continuing to decline, it is rising in the Northern Hemisphere, where "nature" is returning to former agricultural lands.26 Something similar is likely to occur in the Southern Hemisphere, after poor countries achieve a similar level of economic development. A 2010 report concluded that rainforests that have grown back over abandoned agricultural land had 40 to 70 percent of the species of the original forests.27 Even Indonesian orangutans, which were widely thought to be able to survive only in pristine forests, have been found in surprising numbers in oil palm plantations and degraded lands.28 Nature is so resilient that it can recover rapidly from even the most powerful human disturbances. Around the Chernobyl nuclear facility, which melted down in 1986, wildlife is thriving, despite the high levels of radiation.29 In the Bikini Atoll, the site of multiple nuclear bomb tests, including the 1954 hydrogen bomb test that boiled the water in the area, the number of coral species has actually increased relative to before the explosions.30 More recently, the massive 2010 oil spill in the Gulf of Mexico was degraded and consumed by bacteria at a remarkably fast rate.31 Today, coyotes roam downtown Chicago, and peregrine falcons astonish San Franciscans as they sweep down skyscraper canyons to pick off pigeons for their next meal. As we destroy habitats, we create new ones: in the southwestern United States a rare and federally listed salamander species seems specialized to live in cattle tanks -- to date, it has been found in no other habitat.32 Books have been written about the collapse of cod in the Georges Bank, yet recent trawl data show the biomass of cod has recovered to precollapse levels.33 It's doubtful that books will be written about this cod recovery since it does not play well to an audience somehow addicted to stories of collapse and environmental apocalypse. Even that classic symbol of fragility -- the polar bear, seemingly stranded on a melting ice block -- may have a good chance of surviving global warming if the changing environment continues to increase the populations and northern ranges of harbor seals and harp seals. Polar bears evolved from brown bears 200,000 years ago during a cooling period in Earth's history, developing a highly specialized carnivorous diet focused on seals. Thus, the fate of polar bears depends on two opposing trends -- the decline of sea ice and the potential increase of energy-rich prey. The history of life on Earth is of species evolving to take advantage of new environments only to be at risk when the environment changes again. The wilderness ideal presupposes that there are parts of the world untouched by humankind, but today it is impossible to find a place on Earth that is unmarked by human activity. The truth is humans have been impacting their natural environment for centuries. The wilderness so beloved by conservationists -- places "untrammeled by man"34 -- never existed, at least not in the last thousand years, and arguably even longer.

#### No impact – humans can survive post-collapse and there’s no relationship between survival and biodiversity – their authors use flawed data analysis

Hough 14 [Rupert, Environmental Scientist with Expertise in Risk Modelling and Exposure Assessment and PhD from Nottingham University, February, “Biodiversity and human health: evidence for causality?” Biodiversity and Conservation, Vol. 23 No. 2, pg. 272-3/]

Large country-level assessments (e.g. MEA 2005; Huynen et al. 2004; Sieswerda et al. 2001) must be interpreted with some caution. Data measured at country-level are likely to mask regional and local-level effects. Apart from the fact that there are limitations to regression analysis in providing any proof of causality, least squares regression models assume linear relationships between reductions in biodiversity and human health and thus imply a linear relationship between loss of biodiversity and the provision of relevant ecosystem goods and services. A number of authors, however, have suggested that ecosystems can lose a proportion of their biodiversity without adverse consequences to their functioning (e.g. Schwartz et al. 2000). Only when a threshold in the losses of biodiversity is reached does the provision of ecosystem goods and services become compromised. These models also tend to assume a positive relationship between socio-economic development and loss of biodiversity. One problem with this expectation is that the loss in biodiversity in one country is not per definition the result of socio-economic developments in that particular country, but could also be the result of socio-economic developments in other parts of the world (Wackernagel and Rees 1996). Furthermore, the use of existing data means researchers can only make use of available indicators. Unlike for human health and socio-economic development, there are no broadly accepted core-set of indicators for biodiversity (Soberon et al. 2000). The lack of correlation between biodiversity indicators (Huynen et al. 2004) shows that the selected indicators do not measure the same thing, which hinders interpretation of results. Finally, there is likely to be some sort of latency period between ecosystem imbalance and any resulting health consequences. To date, this has not been investigated using regression approaches. Finally, it is thought that provisioning services are more crucial for human health and well-being that other ecosystem services (Raudsepp-Hearne et al. 2010). Trends in measures of human well-being are clearly correlated with food provisioning services, and especially with meat consumption (Smil 2002). While \*60 % of the ecosystem services assessed by the MEA were found to be in decline, most of these were regulating and supporting services, whereas the majority of expanding services were provisioning services such as crops, livestock and aquaculture (MEA 2005). Raudsepp-Hearne et al. (2010) investigated the impacts on human well-being from decreases in non-food ecosystem services using national-scale data in order to reveal human well-being trends at the global scale. At the global scale, forest cover, biodiversity, and fish stocks are all decreasing; while water crowding (a measure of how many people shared the same flow unit of water placing a clear emphasis on the social demands of water rather than physical stress (Falkenmark and Rockstro¨m 2004)), soil degradation, natural disasters, global temperatures, and carbon dioxide levels are all on the rise, and land is becoming increasingly subject to salinization and desertification (Bennett and Balvanera 2007). However, across countries, Raudsepp-Hearne et al. (2010) found no correlation between measures of wellbeing and the available data for non-food ecosystem services, including forest cover and percentage of land under protected-area status (proxies for many cultural and regulating services), organic pollutants (a proxy for air and water quality), and water crowding index (a proxy for drinking water availability, Sieswerda et al. 2001; WRI 2009) This suggests there is no direct causal link between biodiversity decline and health, rather the relationship is a ‘knock-on’ effect. I.e. if biodiversity decline affects mankind’s ability to produce food, fuel and fibre, it will therefore impact on human health and well-being. As discussed in the introduction, the fact that humans need food, water and air to live is an obvious one. All these basic provisions can be produced in a diversity-poor environment. Therefore, to understand whether there is a potential causality relationship between biodiversity in its own right and human health, we need to move beyond the basic provisioning services.

#### Empirics disprove their impact -- it’s junk science

Campbell 11 [Hank Campbell- creator of Science 2.0, a community of research professors, post-docs, science book authors and Nobel laureates collaborating over scientific projects, “I Wouldn't Worry About The Latest Mass Extinction Scare,” March 2011, <http://www.science20.com/science_20/i_wouldnt_worry_about_latest_mass_extinction_scare-76989>, mm]

You've seen it everywhere by now - Earth's sixth mass extinction: Is it almost here? and other articles discussing an article in Nature (471, 51–57 doi:10.1038/nature09678) claiming the end of the world is nigh. ¶ Hey, I like to live in important times. So do most people. And something so important it has only happened 5 times in 540 million years, well that is really special. But is it real? ¶ Anthony Barnosky, integrative biologist at the University of California at Berkeley and first author of the paper, claims that if currently threatened species, those officially classed as critically endangered, endangered, and vulnerable, actually went extinct, and that rate of extinction continued, the sixth mass extinction could arrive in 3-22 centuries. ¶ Wait, what?? That's a lot of helping verbs confusing what should be a fairly clear issue, if it were clear. ¶ If you know anything about species and extinction, you have already read one paragraph of my overview and seen the flaws in their model. Taking a few extinct mammal species that we know about and then extrapolating that out to be extinction hysteria right now if we don't do something about global warming is not good science. Worse, an integrative biologist is saying evolution does not happen. Polar bears did not exist forever, they came into existence 150,000 years ago - because of the Ice Age. ¶ Greenpeace co-founder and ecologist Dr. Patrick Moore told a global warming skepticism site, “I quit my life-long subscription to National Geographic when they published a similar 'sixth mass extinction' article in February 1999. This [latest journal] Nature article just re-hashes this theme” and "The fact that the study did make it through peer-review indicates that the peer review process has become corrupted.” ¶ Well, how did it make it through peer review? Read this bizarre justification of their methodology; "If you look only at the critically endangered mammals--those where the risk of extinction is at least 50 percent within three of their generations--and assume that their time will run out and they will be extinct in 1,000 years, that puts us clearly outside any range of normal and tells us that we are moving into the mass extinction realm." ¶ Well, greater extinctions occurred when Europeans visited the Americas and in a much shorter time. And since we don't know how many species there are now, or have ever been, if someone makes a model and claims tens of thousands of species are going extinct today, that sets off cultural alarms. It's not science, though. ¶ If only 1% of species have gone extinct in the groups we really know much about, that is hardly a time for panic, especially if some 99 percent of all species that have ever existed we don't know anything about because they...went extinct. And we did not. ¶ It won't keep some researchers, and the mass media, from pushing the panic button. Co-author Charles Marshall, also an integrative biologist at UC-Berkeley wants to keep the panic button fully engaged by emphasizing that the small number of recorded extinctions to date does not mean we are not in a crisis. "Just because the magnitude is low compared to the biggest mass extinctions we've seen in half a billion years doesn't mean they aren't significant." ¶ It's a double negative, bad logic and questionable science, though.

# 1nR

# 1NR

## Section 5 CP

We’ll concede to the perms, test of competition on the aff, aff never asked about conditionality in cross ex so its not a arg, we can kick out, kick it, not a voting issue, politics is not a net benefit to section 5 so politics is still live

### States CP– o/v

#### There’s just no fed key warrant for this aff – states have their own anti-trust laws that can prevent the mergers of giant AG conglomerates, along with filing suits at the federal level. The CP has all 50 states coordinate to create anti-trust policies that crush big AG, use state AG’s to file action, and allocate all sufficient resources to do so. Big companies will simply be forced end anti-competitive behavior, because every state is enacting the policies.

**The cp solves the entire aff---multistate antitrust action results in the same material, legal, and symbolical effect as the plan--- ensures multistate cooperation, action, and enforcement---that’s Rauch**

**Dishman preemptively answers their deficits---multistate cooperation allows for resource sharing, expertise, and industry changing enforcement**

**Cp solves best:**

#### States are more aggressive

Knox 21 Ron Knox is the senior researcher and writer for the Independent Business Initiative. He has studied and written about antitrust and monopoly power for more than a decade. “FIGHTING MONOPOLY POWER State Attorneys General.” © 2021 Institute for Local Self-Reliance<https://ilsr.org/fighting-monopoly-power/state-attorneys-general/> {DK}

Over the past 40 years, state authority has once again provided an important, though insufficient, backstop for the absence of federal enforcement. Beginning in the Reagan administration, federal antitrust enforcement fell largely silent as policymakers took a more favorable view of consolidation and turned away from antitrust law’s long-understood goal of promoting open markets and economic democracy.[5] As the National Attorneys General Association’s antitrust task force has noted, “the states found themselves in both philosophical and economic disagreement with federal enforcers.”

In the years that followed, state attorneys general brought cases that ran counter to the federal government’s pro-monopoly philosophy, suing to stop mergers and harmful business practices that threatened competition both within and beyond their borders. In the late 1980s, for example, California’s deputy attorney general, H. Chester Horn, sued American Stores to protect supermarket competition when the federal government allowed it to merge with rival Lucky Stores. Around the same time, a group of states brought the most significant insurance industry antitrust case in a half-century.[6] When the federal government backed out of its monopoly case against Microsoft, state attorneys general stepped in to ensure new innovative companies like Mozilla could compete on even ground.[7]

The states’ efforts had enough impact that, by 2004, Richard Posner, one of the original architects of America’s abandonment of antitrust, suggested in a law review article that Congress should strip the states of their ability to enforce national antitrust laws because the **states had shown they were always more aggressive than federal enforcers**, not less.[8]

#### Multistate action is a gamechanger

Dishman 20 Elysa M. Dishman is an Associate Professor at BYU Law. (November, 2020). “Class Action Squared: Multistate Actions and Agency Dilemmas.” *Notre Dame Law Review*, 96, 291. <https://advance-lexis-com.proxy2.cl.msu.edu/api/document?collection=analytical-materials&id=urn:contentItem:61C7-XKD1-JSXV-G1C2-00000-00&context=1516831>. {DK}

Multistate actions have been a game changer for AGs seeking to hold corporations accountable. By combining forces, AGs have been able to bring enforcement actions against large industries and obtain record-breaking settlements. AGs have brought multistate mass products liability lawsuits against manufacturers of tobacco, lead paint, automobiles, and guns. 81Link to the text of the noteDuring and after the financial crisis of 2008, there was a series of multistate actions against Wall Street banks, 82Link to the text of the noterating agencies, 83Link to the text of the noteand mortgage servicers. 84Link to the text of the note [\*304] High-profile data breaches have also been the subject of multistate actions and settlements with Equifax, 85Link to the text of the noteUber, 86Link to the text of the noteNeiman Marcus, 87Link to the text of the noteNationwide Insurance, 88Link to the text of the noteand Target. 89Link to the text of the noteThe opioid epidemic has also sparked a multistate investigation of the pharmaceutical industry. 90Link to the text of the note

Multistate settlements are some of the largest settlements in American history. The Master Settlement Agreement between forty-six states and several tobacco companies settled for over $ 200 billion and was the largest settlement in American history. 91Link to the text of the noteThe National Mortgage Settlement, between forty-nine states and five mortgage servicers, settled for $ 25 billion. 92Link to the text of the noteOther multibillion dollar settlements include settlements with Bank of America, JPMorgan, and others for their role in securitizing Residential Mortgage-Backed Securities (RMBS) as part of a multistate and federal coordinated [\*305] working group, 93Link to the text of the noteand with Standard & Poor's for its ratings of toxic investments during the financial crisis. 94Link to the text of the note

Multistate settlements not only command high-dollar settlements, but also instigate sweeping corporate reforms. For example, the National Mortgage Settlement changed the way mortgages are serviced and foreclosed. 95Link to the text of the noteThe Master Settlement Agreement changed how tobacco companies could advertise. 96Link to the text of the noteMultistate settlements have implemented these reforms, even in the face of historic opposition to the same type of regulations in state legislatures and Congress. 97Link to the text of the noteThis regulatory ability puts tremendous power in the hands of AGs and has led some scholars to raise concerns about AGs regulating nationwide through settlements. 98Link to the text of the note

The claims asserted on behalf of state residents in multistate actions are generally factually similar, arising from the same series of underlying events, and are asserted against the same defendant or group of defendants. They also rely on similar theories, even though they are based on different states' laws. For example, the National Mortgage Settlement combined the claims of state residents based on similar instances of mortgage servicing and foreclosure abuses leading up to and during the financial crisis. 99Link to the text of the noteSimilarly, the Target multistate settlement included similar claims of consumers whose credit card information was hacked from Target's information systems. 100Link to the text of the note

Multistate actions often involve many states, sometimes with almost every state in the country participating in the action. 101Link to the text of the noteFor example, the National Mortgage Settlement had forty-nine participating states, 102Link to the text of the notethe Target multistate [\*306] settlement had forty-seven participating states, 103Link to the text of the notethe Western Union multistate settlement had fifty participating states, 104Link to the text of the noteand the Master Settlement Agreement had forty-six states. 105Link to the text of the noteSince each AG represents a large number of state residents, the interests of many states and people are represented in multistate actions.

#### States solve with greater consistency

Hildabrand 14 Clark L. Hildabrand JD Yale, Assistant Solicitor General. Interactive Antitrust Federalism: Antitrust Enforcement in Tennessee Then and Now, 16 Tenn. J. Bus. L. (2014) , pp.74-76. https://ir.law.utk.edu/transactions/vol16/iss1/4 {DK}

State antitrust laws and enforcement also encourage greater consistency in antitrust enforcement over time by weakening barriers to enforcement from financial, jurisdictional, and political restrictions. First, dual enforcement of antitrust regulations allows access to the resources of both the federal government and state governments. Government agency budgets certainly are not immune to reductions and limitations in times of fiscal difficulty.54 The DOJ’s Antitrust Division announced in 2012 that it planned to close four field offices following the 2013 budget process in an effort to reduce costs.55 According to Judge Dan Polster, who presides over the United States District Court for the Northern District of Ohio and started his career in the Cleveland field office of the Antitrust Division, closing the field offices will reduce the DOJ’s ability to prosecute regional antitrust cases and resolve local price fixing disputes.56 These cases “really have a direct impact on [the] local economy and people’s pocket books,” but the DOJ Antitrust Division has turned its focus toward larger domestic and international cases.57 Encouraging state enforcement of state and federal antitrust statutes may alleviate concerns about a lack of regional enforcement. State attorneys general can pool their resources for enforcement and even appear together as amici curiae to better inform courts as to the interests of state consumers.58 One widespread fear was that states might pool their resources in order to pursue protectionist litigation in their mutual favor, and to the disadvantage of a few states.59 In response to this criticism, Congress dramatically limited the availability of multistate actions “by requiring that any state enforcement action take place ‘in any district court of the United States in that State or in a State court that is located in that state and that has jurisdiction over the defendant.’”60 Thus, state antitrust enforcement and limited regional pooling enable greater consistency in antitrust enforcement even in the presence of shifting federal priorities.

Despite concerns that additional state resources for antitrust enforcement will lead to excessive antitrust enforcement in times of sufficient federal funding, state budgets and attorneys general are responsive to the ebb and flow of federal antitrust enforcement funding. 61 During the recent recession, the DOJ reacted to resource restrictions by encouraging federal and state cooperation and providing some resources as an incentive for greater state antitrust enforcement funding and action.62 State resources for antitrust enforcement are supplemental and do not eclipse the amount of money spent on federal enforcement.63 For example, earlier in the 2000s, states’ attorneys general used smaller proportions of their budgets for antitrust enforcement than the DOJ, even excluding the substantial portion of the FTC’s budget spent on antitrust actions.64 A federalist approach to antitrust enforcement would present concerns if states poured copious resources into imposing excessive penalties on out-of-state corporations.65 However, state attorneys general must efficiently utilize their limited resources by focusing on the cases most important for state consumers. In the single-state antitrust enforcement context, a majority of state actions include at least one in-state defendant; and single-state enforcement actions are 24.5% more likely than multistate enforcement actions to only include defendants within the relevant states.66 State antitrust enforcement and statutes thus enable more consistent antitrust enforcement, especially for local and regional cases.

This federalist approach to antitrust enforcement also provides greater consistency in light of jurisdictional limitations on the powers of the federal and state governments. Although the narrower construction of the Interstate Commerce Clause limited federal antitrust enforcement in the years immediately following passage of the Sherman Act,67 restrictions on state jurisdictional authority formerly placed strong limitations on the corporations affected by state antitrust laws and proceedings.68 At the time of the Sherman Act’s passage, the case governing the limits of state jurisdiction was Pennoyer v. Neff, which took a territorial approach to jurisdiction.69 Courts in those early years took a broader view of what constituted intrastate activity but also, at least nominally, prevented states from exerting jurisdiction over entities and conduct outside of the state’s jurisdiction.70 Eventually, the emphasis on physical presence began unraveling once state courts could exercise personal jurisdiction over parties with minimum contacts within the state.71 As long as a corporation purposefully avails itself of the resources of a state or intentionally conducts business in a state, that state’s courts will be able to assert personal jurisdiction over the corporation with respect to that matter.72 These relaxed limitations on the ability of states to enforce their own antitrust laws on out-of-state corporations clarify the states’ ability to step in and punish corporations that harm their consumers’ interests. At the same time, continued restrictions on the general jurisdiction of courts73 prevent states from over-zealously applying their antitrust laws to corporations when the allegedly anti-competitive actions of the corporation do not involve any dealings with individuals or entities within those states.

#### Even if it is just 1 state, strictest enforcement becomes the law

HLR 20 Harvard Law Review. “Antitrust Federalism, Preemption, and Judge-Made Law.” JUN 10, 2020 133 Harv. L. Rev. 2557 <https://harvardlawreview.org/2020/06/antitrust-federalism-preemption-and-judge-made-law/> {DK}

Closely related to the patchwork regime problem is the one-state dominator problem: because national firms may not always be able to maintain different business practices in each state, firms could be forced to follow the law of whichever state has the strictest antitrust policy nationwide. For example, a single state could use its own antitrust laws to “challenge the largest nationwide transactions so long as it can show that the state itself, its citizens, or its economy is affected in a way that provides standing.” If a nationwide merger is illegal under one state’s laws, it may not be worth it for the firm to restructure the transaction in order to merge in all but one jurisdiction. This reality could allow for the state with the strictest antitrust policy to dominate the policy decisions of every other state and of the federal government. 45. See id. at 1061–62.

#### View the cp thru a lens of sufficiency– counterplan solvency relative to squo, not plan. Solvency deficits mean the aff might solve *better*, but the counterplan solves *enough* to mitigate their impacts

### 2NC – Solvency – Follow-On\*\*

#### Multistate action causes federal and private follow-on enforcement

Dishman 19 Elysa M. Dishman is an Associate Professor of Law at Brigham Young University Law School. (2019). “Enforcement Piggybacking and Multistate Actions.” *Brigham Young University Law Review*, 2019, 421. <https://advance-lexis-com.proxy2.cl.msu.edu/api/document?collection=analytical-materials&id=urn:contentItem:5YC5-HPC1-JK4W-M001-00000-00&context=1516831>. {DK}

Multistate actions may also prompt other enforcers to piggyback on them. Multistate actions against major corporations are high profile and often command large settlements. They draw the attention of other federal and private enforcers in a way that an AG bringing an action alone may not. When multistate actions attract the attention of federal enforcers that then piggyback on multistate actions, this can mean that multistate actions are performing an important function in the multienforcer system. In this instance, AGs' multistate actions have prodded federal enforcers to act in areas of important national regulation where they have been slow to respond because of agency capture, political impediments, or bureaucratic red tape. For example, AGs prompted federal action by their enforcement during the Great Recession against Wall Street Banks. 221Link to the text of the note

Multistate actions may also attract the attention of private enforcers. Private enforcers are strongly incentivized to piggyback on other enforcers to make their actions more economical. Private enforcement actions have traditionally been focused on compensation, and public enforcement actions have primarily focused on deterrence. 222Link to the text of the noteA current trend in public enforcement, including multistate actions, is to increasingly provide public compensation as part of the settlements. 223Link to the text of the noteWhen private enforcers piggyback on multistate actions, they may be seeking compensation for the same people who received public compensation in the multistate action. 224Link to the text of the noteThis overlap may be [\*458] necessary because the public compensation in AG actions may not be adequate to fully compensate injuries. 225Link to the text of the noteHowever, there may be an unfair second bite of the apple in terms of compensation when private enforcers piggyback on multistate actions that have provided public compensation. 226Link to the text of the note

### 2nc – ag solvency

#### States have sole authority over ag, manufacturing, and mining

Meese 15 Alan J. Meese Ball Professor of Law and Cabell Research Professor, William and Mary Law School. “Antitrust Federalism and State Restraints of Interstate Commerce: An Essay for Professor Hovenkamp.” 7 Aug 2015. *Iowa Law Review*, Vol. 100, No. 5, 2015. pp. 2172-2173. <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2640223> {DK}

Not surprisingly, the Supreme Court invoked its dual federalism jurisprudence when first interpreting the Sherman Act. In E.C. Knight, for instance, the Court evaluated a merger that created a monopoly over the production of sugar in the United States.62 The Court reiterated Kidd and related decisions holding that states possessed exclusive authority to regulate manufacturing**.**63 While control over production influenced commerce and was necessary to its existence, such control only affected commerce “incidentally and indirectly.”64 Thus, the Court confirmed that **states retained exclusive authority over manufacturing, mining, and agriculture—including the authority to impose antitrust regulation or rules of corporate governance prohibiting monopolistic transactions**.65 “It was in the light of well-settled principles that the act of July 2, 1890, was framed,” the Court said.66

#### State enforcement with agriculture works and is happening right now in Washington – also causes federal follow on.

Washington AG 10/26 – [Washington State Office of the Attorney General, October 26th 2021, “AG Ferguson sues to stop sweeping conspiracy to drive up the cost of chicken for nearly all Washington families”, <https://www.atg.wa.gov/news/news-releases/ag-ferguson-sues-stop-sweeping-conspiracy-drive-cost-chicken-nearly-all>, eph]

Attorney General Bob Ferguson announced today he has filed a lawsuit against 19 chicken producers accusing them of a wide-ranging illegal conspiracy to inflate and manipulate prices, rig contract bids and coordinate industry supply reductions to maximize profits. Ferguson’s lawsuit also names an industry data reporting service accused of assisting in the conspiracy. The 19 companies named in Ferguson’s lawsuit account for approximately 95 percent of the “broiler” chickens sold in the United States — a term for virtually all chicken produced for meat. Broiler chickens are used for everything from chicken breasts people purchase at the grocery store, to chicken nuggets and chicken sandwiches they buy at fast food restaurants. An estimated 90 percent of Washington consumers — about 7 million Washingtonians — buy products derived from the chickens these companies produce. In addition, Washington businesses, colleges, hospitals and nursing homes were impacted by the companies’ illegal conduct. “If you’ve eaten chicken in the last decade, this conspiracy touched your wallet,” Ferguson said. “This conspiracy cost middle-class and low-income Washington families more money to put food on their table. I will hold these companies accountable for the profits they illegally made off the backs of hardworking Washington families.” According to the U.S. Department of Agriculture, broiler chickens produced in the United States had a wholesale value of between $21 billion and $33 billion annually between 2008 to 2018. Ferguson’s lawsuit, filed in King County Superior Court, accuses the companies of illegally engaging in a host of anticompetitive conduct to coordinate supply and manipulate pricing since at least 2008. Ferguson asserts their conduct violates the Washington Consumer Protection Act and Washington antitrust laws. In addition to stopping the companies’ conduct, Ferguson is seeking restitution for Washington consumers and businesses and civil penalties. Ferguson asserts that Washington consumers and businesses overpaid millions of dollars for chicken due to the companies’ conduct. The companies also face millions in civil penalties over their violations. Though there are several class action lawsuits nationwide related to the industry that have settled, Washington consumers and institutional purchasers like schools and hospitals are not included in these settlements and were ineligible to receive funds from them. Companies produce 95 percent of broiler chickens The companies named in Ferguson’s lawsuit account for about 95 percent of the overall broiler chicken market. The companies named in the lawsuit are: Tyson Foods Inc. Pilgrim’s Pride Corp. Sanderson Farms Inc. Perdue Farms Inc. Koch Foods Inc. Foster Farms LLC Mountaire Farms Inc. Wayne Farms LLC Amick Farms LLC George’s Inc. Peco Foods Inc. House of Raeford Inc. Fieldale Farms Corp. Case Foods Inc. Mar-Jac Poultry Claxton Poultry Farms Simmons Foods Inc. O.K. Foods Inc. Harrison Poultry Inc. Agri Stats, a company that collects industry data and publishes detailed weekly and monthly reports for the producers, is also included in the lawsuit. Ferguson asserts the company, while purporting to provide data anonymously, knowingly presented the companies’ data in a way that made them easy to identify, facilitating an illegal exchange of sensitive business information. The producers utilized Agri Stats to share information about their pricing, future production, profitability and costs — the type of information that competitors do not normally exchange in a competitive market. Companies coordinated significant supply reductions Ferguson asserts that the companies coordinated to reduce production during 2008-2009 and 2011-2012, resulting in significant production cuts and higher prices. The Attorney General’s Office investigation uncovered a coordinated, industry-wide effort to cut production through the exchange of competitively sensitive information, signals during investor calls and direct coordination between players in the industry. Ferguson asserts that in early 2008, through press releases and earnings and investor calls, at investment bank conferences, at events hosted by Agri Stats and at trade association meetings attended by many of their senior executives, the companies coordinated to exercise what they termed as “discipline” to reduce supply and increase prices. As a result, chicken prices rose through mid- to late-2008 and remained near all-time highs in 2009, despite the country at large falling into a deep recession. As the price rose, production increases followed in 2010, which in turn began to depress prices again. This prompted the companies to coordinate a second round of production cuts in 2011, Ferguson asserts, which led chicken prices to recover. In addition, the companies also culled their breeder flocks, which, coupled with lower supply, increased chicken prices — and the companies’ profits — for the coming years. As the Reuters news service reported on July 8, 2014, “High chicken prices due to the production constraints helped push up the stock prices of Tyson and Sanderson this year, by about 17 percent and 38 percent, respectively. Both Tyson and Sanderson reported net income more than doubled in their fiscal second quarters.” Conspirators coordinated bids to produce a “rising tide” More than a dozen executives and managers from several companies face federal criminal charges for engaging in a bid-rigging scheme to coordinate price increases for major purchasers, including KFC, Popeyes and Chick-Fil-A. They include former CEOs of Pilgrim’s Pride and the president of Claxton Poultry Farms, and sales executives and managers from the two companies, as well as Tyson Foods, George’s Inc., Koch Foods and Case Foods. Employees from Perdue Farms, and Mar-Jac Poultry have been identified as unindicted co-conspirators. The trial for the first group of federal defendants is currently set to begin later this month. Ferguson’s lawsuit also asserts the companies engaged in this illegal bid-rigging scheme from 2011-2019 in violation of Washington law. Email exchanges, text messages and call logs included in the federal criminal indictments detail their illegal conduct. One such exchange — where an executive literally says the communication between companies is “not exactly a legal conversation” — serves as a prime example of this illegal coordination. “I received a call today from a friendly competitor telling me it’s all over the market that Pilgrim’s is taking contract pricing up,” one Pilgrim’s employee wrote in the exchange. “They thanked us for taking the lead and told me that contrary to what we might hear regarding their company, they are following as are others. Courage … keep it up guys.” “Nice, rising tide and all that good stuff,” another employee responded. The original employee went on to name the “friendly competitor” — George’s — and detail the outcome of a “big meeting” among the competitor’s executives, stating that, “They don't want to lose any opportunity to move their pricing up.” A Pilgrim’s executive later forwarded the email exchange to one of his managers, adding, “FYI. Do not fwd. not exactly a legal conversation.” Ferguson’s lawsuit seeks millions of dollars in restitution for Washingtonians and civil penalties Ferguson’s lawsuit asserts that the companies’ conduct violates Washington’s antitrust laws and the Washington Consumer Protection Act. The lawsuit seeks to stop their illegal conduct and bar them from illegally coordinating in the future. Ferguson is seeking restitution for Washington consumers and businesses harmed by the companies’ unlawful conduct, in addition to civil penalties. The Attorney General’s investigation into anticompetitive conduct by other corporate entities and individuals continues. Assistant attorneys general Travis Kennedy, Christina Black and Linh Tran, economic analyst Ryne Rohla, paralegal Tracy Jacoby and legal assistant Grace Summers from the Attorney General’s Antitrust Division are handling the case for Washington. The Office of the Attorney General’s Antitrust Division is responsible for enforcing the antitrust provisions of Washington's Consumer Protection Act and federal antitrust laws. The division investigates and litigates complaints of anticompetitive conduct and reviews potentially anticompetitive mergers. The division also brings actions in state and federal courts to enforce antitrust laws. It receives no general fund support, funding its own actions through recoveries made in other cases.

### A2: Perm do both

Links to the net benefit---includes federal change

**It causes duplicative and rivalrous cases, crushing solvency.**

**Chance ’18** [Clifford; May 2018; International law firm, ranking in the top ten globally on revenue and employment-based metrics; Clifford Chance, “DOJ Announces Policy to Discourage Law Enforcement Agencies and Regulators from ‘Piling On’ Duplicative and Parallel Penalties,” <https://www.cliffordchance.com/content/dam/cliffordchance/briefings/2018/05/doj-announces-policy-to-discourage-law-enforcement-agencies-and-regulators-from-piling-on-duplicative-and-parallel-pen.pdf>]

What Is “Piling On”?

In the law enforcement context, "**piling on**" refers to **multiple** law enforcement agencies issuing their own **independent penalties** for the **same corporate conduct**. Piling on most typically comes about as the result of **overlapping mandates** for law enforcement and **regulatory bodies**, each with an interest in targeting a **particular course** of conduct. In his announcement, Rosenstein analogized "piling on" to football, where a player "piles on" by jumping on other tacklers after the opponent is already down. To proponents of the new DOJ policy, **duplicative penalties** from multiple law enforcement agencies are like "piling on" in football: they are **unnecessary** and **unfair**.

The notion of **law enforcement** “pile on” has received attention in recent years. DOJ components typically have enforcement **mandates** focusing on particular types of conduct (e.g. the Fraud Section, the **Antitrust Division**), **regardless** of **market context**. By contrast, other **federal regulators** have **statutory oversight** of particular sectors or markets (e.g. the Securities and Exchange Commission (the "SEC"), the Commodity Futures Trading Commission (the "CFTC")). Additionally, the **enforcement mandates** of federal regulators often function in **tandem**, and sometimes **overlap**, with the enforcement mandates of **state**, **local**, and **foreign regulators**. "Piling on" comes about most frequently when a challenged course of conduct falls **within the mandates** of (a) multiple conduct-oriented DOJ components; or (b) one or more **DOJ** components and **another regulator** with broad oversight of the market where the challenged conduct took place. In the United States, DOJ investigations are commonly conducted **in parallel** with investigations by other regulators, both at the **federal** and **state level**. When conduct also occurs outside the United States, DOJ penalties are also often coupled with the imposition of penalties by foreign regulators.

In the wake of the 2008 financial crisis, the practice of multiple law enforcement agencies issuing **duplicative penalties** against the **same acts** of corporate misconduct has been **common** in the **U**nited **S**tates, and indeed, around the world. For example, numerous regulators at the federal and **state levels** and abroad imposed billions of dollars in penalties on financial institutions in connection with guilty pleas to both fraud and antitrust crimes concerning alleged manipulation of the foreign exchange markets ("FX"). In the FX investigations, the Fraud Section of the DOJ Criminal Division used its mandate to target FX manipulation internal to the financial institutions themselves, while the **Antitrust Division** targeted the **same conduct** as engaged in between the financial institutions and their horizontal competitors (a per se violation of the Sherman Act). DOJ received parent-level guilty pleas from five financial institutions and more than $2.5 billion in criminal penalties.4 Meanwhile, also at the federal level, the CFTC pursued enforcement actions against the financial institutions under the theory that the foreign exchange benchmarks were "commodities in interstate commerce" subject to the antimanipulation provisions of the Commodity Exchange Act and the Federal Reserve used its authority under the Federal Deposit Insurance Act to issue sanctions. In addition, at the **state level** and abroad, the New York State Department of Financial Services, and foreign regulators such as the UK's Financial Conduct Authority, each imposed hefty sanctions pursuant to their respective mandates to prosecute violations of New York and UK law.

### A2: PDCP or perm do aff then CP

**Obviously severance---the plan uses the federal government, the cp uses the states---voter for clash and neg ground**

**Here’s ev---"Federal Government" means the national government, not the states or localities**

**Thomson 7** Alex Thomson, A Glossary of US Politics and Government 2007 p 72

federal government The term used to refer to the central, national government of the United States, based primarily in Washington DC. The federal government differs from the fifty state governments in that it has a national jurisdiction, and it governs in separate policy areas from those of the states.

**‘Federal’ government is national.**

**Thompson ’21** [Thompson School District; 2021; Public school district for Loveland, Colorado and surrounding area; Thompson Schools, “Structures of Government,” <https://www.thompsonschools.org/cms/lib/CO01900772/Centricity/Domain/3627/Structures%20of%20Government.pdf>]

Australia, Switzerland, Canada, Mexico, Germany, India, and some 20 other stats also have federal forms of government today. In the **U**nited **S**tates, the term ‘**Federal Government**’ is often used to refer to the **National** Government, but note that the **50 state** governments are unitary in structure, **not federal**.

**They say courts don’t solve, they do, Courts uphold state antitrust laws, even when they impact interstate conduct.**

**ABA 8**, American Bar Association Antitrust Section, *State Antitrust Enforcement Handbook*, Second edition, Chapter II: “Legal Enforcement and Limitations,” 2008, Accessed through NU libraries, online access not paginated.

b. Extraterritorial Reach of State Law under the Commerce Clause

In the first half of the twentieth century, state courts, influenced by the prevailing notion of mutually exclusive sovereignties (i.e., that Congress could never regulate intrastate commerce and the states could never regulate interstate commerce), interpreted their state antitrust statutes to exclude interstate commerce from their reach. n134Link to the text of the note Other state courts disagreed, holding instead that their antitrust laws could reach transactions with both interstate and intrastate aspects. n135Link to the text of the note As the Supreme Court increasingly interpreted the Constitution to permit Congress to regulate intrastate commerce and to permit states to regulate interstate commerce to achieve a valid state purpose, some state courts **reconsidered** **earlier**, **more constrained** interpretations of their antitrust laws. n136Link to the text of the note

The Commerce Clause generally does not **invalidate** state laws **merely because** their application could have **repercussions beyond state lines**. n137Link to the text of the note But the Commerce Clause might preclude[] the application of a state statute to commerce that takes place **wholly outside of the State's borders**, whether or not the commerce has effects within the State . . ., and, specifically, a State may not adopt legislation that has the practical effect of establishing "a scale of prices for use in other states." n138Link to the text of the note

The Commerce Clause has been invoked, for example, when state law was used to control out-of-state prices directly or to regulate out-of-state corporate tender offers that involved nonresident shareholders and nonresident corporations. n139Link to the text of the note Courts have **upheld** the application of state antitrust law to **out-of-state conduct** to **remedy in-state harm** when, for example, federal antitrust law also prohibits the challenged conduct and the risk of inconsistent legislation is low. n140Link to the text of the note

Usually, the burden of state law on interstate commerce does not depend on the practical consequences of one state's law **alone**. Courts also consider how the challenged statute would interact with the legitimate regulatory regimes of other states, as well as the effect if many states were to adopt similar laws. n141Link to the text of the note The aim is to avoid interstate regulatory gridlock or the application of inconsistent legislation. The increased cost that might result from compliance with a regulatory regime in each state, however, generally does not constitute gridlock. n142Link to the text of the note

Applying these tests in Valley Bank of Nevada v. Plus System, n143Link to the text of the note the Ninth Circuit upheld a state law that barred ATM networks from preventing their members from charging ATM fees at in-state banks, because the prohibition **did not pose a barrier** to an interstate ATM network. The court found that "**inconsistent state laws** on transaction fees can **coexist** without conflict as long as each state regulates only its own banks." n144Link to the text of the note

### A2: Links to Politics

#### State enforcement is uncontroversial

Lemos 11 Margaret H. Lemos, Associate Professor, Benjamin N. Cardozo School of Law. June, 2011. “State Enforcement of Federal Law.” *New York University Law Review*, 86, 698. <https://advance-lexis-com.proxy2.cl.msu.edu/api/document?collection=analytical-materials&id=urn:contentItem:534S-1F40-02BN-11BP-00000-00&context=1516831>. {DK}

Indeed, state enforcement has been relatively uncontroversial in Congress. 64Link to the text of the note The most common argument in its favor - usually raised in the context of statutes that permit both state and private enforcement - is a need to enhance enforcement for reasons of compensation, deterrence, or both. As the next Part will show, one of the differences [\*713] between state and federal public enforcement is that state attorneys general often sue to recover damages on behalf of citizens. Like private litigation, then, state enforcement may be driven by a desire to compensate victims, and legislators and lobbyists sometimes invoke that goal as a reason for empowering both states and private parties. 65Link to the text of the note More frequently, state enforcement is justified as a means of ensuring compliance with federal law through a "multilayered approach to enforcement" 66Link to the text of the note that "brings more allies to [the] fight." 67Link to the text of the note When objections do arise, they tend to be voiced by legislators [\*714] and industry groups who oppose the substantive project of the statute. 68Link to the text of the note